

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 1

Date: June 3, 2009

Subject: Information Relative to Possible Conflict of Interest

Recommendation*: Note agenda items and contractors/subcontractors which may require member abstentions due to possible conflicts of interest.

Background: In accordance with California Government Code 84308, members of the Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual. This agenda contains recommendations for action relative to the following contractors:

Item No.	Contract No.	Contractor/Agents	Subcontractors
7	C08-146	High-Light Electric, Inc. <i>Erwin Mendoza, President</i>	None
16	02-042	Moffatt and Nichol <i>Walt Quesada</i>	AMEC Inc. David Evans & Associates, Inc. KOA Corporation LSA & Associates, Inc. Paragon Partners VMSA

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*Approved
Board of Directors*

Date: June 3, 2009

Moved: _____ Second: _____

In Favor: _____ Opposed: _____ Abstained: _____

Witnessed: _____

20	09148-1	Michael A. Bair	None
23	C09-197	Ron DeLaby <i>Paladin Investigative Services</i>	None

Financial Impact: This item has no direct impact on the budget.

Reviewed By: This item is prepared monthly for review by the Board of Directors and Policy Committee members.

BOARD OF DIRECTORS ATTENDANCE RECORD - 2009

Name	Jan	Feb	March	April	May	Special May 20 Mtg	June	July	Aug	Sept	Oct	Nov	Dec
Gary Ovitt Board of Supervisors	X	X		X	X	X							
Brad Mitzelfelt Board of Supervisors	X			X	X								
Paul Biane Board of Supervisors	X		X	X									
Josie Gonzales Board of Supervisors	X	X	X	X	X								
Neil Derry Board of Supervisors		X	X	X	X	X							
Charley Glasper City of Adelanto	X	X	X	X	X								
Rick Roelle Town of Apple Valley	X	X	X	X	X	X							
Julie McIntyre City of Barstow	X	X	X	X	X								
Bill Jahn City of Big Bear Lake	X	X	X	X	X	X							
Dennis Yates City of Chino	X	X	X	X	X	X							
Gwenn Norton-Perry City of Chino Hills		X	X	X	X								
Kelly Chastain City of Colton	X	X	X	X	X	X							
Mark Nuaimi City of Fontana	X	X	X	X	X	X							
Bea Cortes City of Grand Terrace	*	X	X	X	X	X							
Mike Leonard City of Hesperia	X	X		X	X								

X = member attended meeting.

* = alternate member attended meeting. Empty box = Did not attend meeting

Crossed out box = not a Board Member at the time.

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BOARD OF DIRECTORS ATTENDANCE RECORD - 2009

Name	Jan	Feb	March	April	May	Special May 20 Mtg	June	July	Aug	Sept	Oct	Nov	Dec
Larry McCallon City of Highland	X	X	X	X	X	X							
Rhodes 'Dusty' Rigsby City of Loma Linda	X	X	X	X	X	X							
Paul Eaton City of Montclair	X	X	X	X	*								
Jeff Williams City of Needles	X	X		X	X								
Alan Wapner City of Ontario	X	X	X	*	X								
Diane Williams City of Rancho Cucamonga	X	X	X	X	X	X							
Pat Gilbreath City of Redlands	X	X	X	X	X	X							
Grace Vargas City of Rialto	*	X	X	X	X	X							
Ed Scott City of Rialto	X	X	X	X	X								
Patrick Morris City of San Bernardino	X	X	X	X	X								
Jim Harris City of Twentynine Palms	X	X	X	X	X	X							
John Pomierski City of Upland	X	X	X		X	X							
Ryan McEachron City of Victorville	X	X	X	X	X	X							
Dick Riddell City of Yucaipa	X	X	X	X	X	X							
William Neeb Town of Yucca Valley	X	X	X	X	X	X							
Ray Wolfe Ex-Official Member	Jesus Galvan	X	X	X	Basem Muallem								

X = member attended meeting.
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* = alternate member attended meeting. Empty box = Did not attend meeting. Crossed out box = not a Board Member at the time.

BOARD OF DIRECTORS ATTENDANCE RECORD - 2008

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Gary Ovitt Board of Supervisors	X	X	X	X	X	X	X	X		X	X	X
Brad Mitzelfelt Board of Supervisors	X	X	X	X	X		X	X	X	X		
Paul Biane Board of Supervisors		X		X	X	X				X	X	
Dennis Hansberger Board of Supervisors	X	X		X	X		X	X	X		X	X
Neil Derry Board of Supervisors	X	X	X	X	X	X	X	X	X	X	X	X
Josie Gonzales Board of Supervisors	X		X	X	X	X	X	X	X	X		
Jim Nehmens City of Adelanto	X	X	X		X	X	X	X	X	X	X	X
Charley Glasper City of Adelanto	X	X	X	X	X	X	X	X	*	X	X	X
Rick Roelle Town of Apple Valley	X	X	X	X	X	X		X	X	X	X	X
Lawrence Dale City of Barstow	X	X	X	X	X	X	X	X	X	X	X	X
Bill Jahn City of Big Bear Lake	X	X			X	X	X	X		X	X	X
Dennis Yates City of Chino	X	X	X		X	X	X	X	X		X	X
Gwenn Norton-Perry City of Chino Hills		X	X	X	X		*				X	
Kelly Chastain City of Colton	X	X	X	X	X	*	*	X	X	X	X	X
Mark Nuaimi City of Fontana	X	X	X		X	X	X	X	X	X	X	X
Bea Cortes City of Grand Terrace	X	X	X	X	X	X	X	X	X	X	X	X
Mike Leonard City of Hesperia	X	X	X	X	X	X	X		X	X	X	X
Larry McCallon City of Highland	X	X	X		X	X	*	*	X	X	X	X

X = member attended meeting.

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Empty box = Did not attend meeting

Crossed out box = not a Board Member at the time.

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BOARD OF DIRECTORS ATTENDANCE RECORD - 2008

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Robert Christman City of Loma Linda	X	X		X	X	X	X					
Rhodes 'Dusty' Rigsby City of Loma Linda								X	X	X	X	X
Paul Eaton City of Montclair	X	X	X	X	X	X	X	X	X	X	X	X
Rebecca Valentine City of Needles		X	X	X	X	X	X	X	X	X	X	X
Paul Leon City of Ontario	X	X	X	X	X	*	X	X	X	X	X	X
Diane Williams City of Rancho Cucamonga	X	X	X	X	X	X	X	X	X	X	X	X
Pat Gilbreath City of Redlands	X	X	X	X	X	X	X	X	X	X	X	X
Grace Vargas City of Rialto	X	X	X		X		X	*	X			X
Patrick Morris City of San Bernardino	X	X		X	X	X		X	X	X	X	X
Jim Harris City of Twentynine Palms		X	X	X	X	X	X	X	X	X	X	X
John Pomierski City of Upland	X	X	X		X	X		X	X			X
Mike Rothschild City of Victorville	X	X	X	X	X	X	X	X	X	X	X	
Ryan McEachron City of Victorville												X
Dick Riddell City of Yucaipa	X	X	X	X	X	X	X	X	X	X	X	X
Chad Mayes Town of Yucca Valley	X	X	*	*								
William Neeb Town of Yucca Valley					X	X	X	X	X	X	X	X
Michael Perovich Ex-Official Member	X	X		X	X	Karla Sutliff	Karla Sutliff	Karla Sutliff	Karla Sutliff			
Ray Wolfe Ex-Official Member										X	X	X

X = member attended meeting.
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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 3

Date: June 3, 2009

Subject: Procurement Report for April 2009

Recommendation:* Receive Monthly Procurement Report.

Background: The Board of Directors approved the Contracting and Procurement Policy (Policy No. 11000) on January 3, 1997. The Executive Director, or designee, is authorized to approve Purchase Orders up to an amount of \$50,000. All procurements for supplies and services approved by the Executive Director, or his designee, in excess of \$5,000 shall be routinely reported to the Administrative Committee and to the Board of Directors.

Attached are the purchase orders in excess of \$5,000 to be reported to the Board of Directors for the month of April 2009.

Financial Impact: This item imposes no impact on the FY 2008/2009 Budget. Presentation of the monthly procurement report will demonstrate compliance with the Contracting and Procurement Policy (Policy No. 11000).

Reviewed By: This item was unanimously received by the Administrative Committee on May 13, 2009.

Responsible Staff: William Stawarski, Chief Financial Officer

*Approved
Board of Directors*

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

PURCHASE ORDERS ISSUED FOR APRIL 2009

	Vendor	Purpose	Sole Source Y/N	Amount
P09198	Padilla & Associates, Inc.	Preparation of the new DBE Race- Conscious Implementation Agreement for Local Agencies in Compliance with Caltrans Submittal Requirements	Yes - The firm has calculated SANBAG and regional goals for the DBE program since 2001 and developed procedures and training for Caltrans. Selection was based on demonstrated experience and unique qualifications.	\$8,950.00
P09201	Mugg & Harper, LLP	SR-210 Freeway Defense Legal Counsel	No	\$5,000.00
			TOTAL PURCHASE ORDERS ISSUED	\$13,950.00

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
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Minute Action

AGENDA ITEM: 4

Date: June 3, 2009

Subject: Notice of Presidential Appointment to Southern California Association of Governments (SCAG) Community Economic and Human Development (CEHD) Committee

Recommendation:* Note Presidential Appointment of Chino Hills City Council Member Gwenn Norton-Perry to fill a vacancy on the SCAG Community Economic and Human Development Committee.

Background: In accordance with SANBAG Policy 10001, the SANBAG President is authorized to appoint members of the Board of Directors to SCAG policy committees. All Presidential appointments are announced at the SANBAG Board of Directors meeting immediately following the appointments for the purpose of advising the Board of Directors of the status of SANBAG committee membership and representation.

Board President Gary Ovitt has appointed Council Member Gwenn Norton-Perry of Chino Hills to the SCAG Community Economic and Human Development Committee.

With this appointment, there is still one remaining vacancy on the Community Economic and Human Development Committee and there is also still one vacancy left on the Energy and Environment Committee. Any Board Members that are interested in serving on this committee should contact the Board President or SANBAG staff.

*

Approved
Board of Directors

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

The item serves to comply with SANBAG policy relative to announcement of appointments.

Financial Impact: This item has no direct impact upon the adopted SANBAG budget.

Reviewed By: This item has not received prior policy committee review.

Responsible Staff: Duane A. Baker, Director of Management Services

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
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Minute Action

AGENDA ITEM: 5

Date: June 3, 2009

Subject: Amendment to Conflict of Interest Policy 10102

Recommendation:* Approve an amendment to Policy 10102 covering conflict of interest reporting for Board Members and employees.

Background: SANBAG's conflict of interest policy is based on Section 18730 of the Regulations of the Fair Political Practices Commission (FPPC) - Title 2, Division 6, California Code of Regulations. This Conflict of Interest Code requires certain officials and employees of SANBAG to file a statement of economic interests (FPPC Form 700).

In the past, SANBAG's policy simply reprinted the FPPC regulations, including the monetary limits that must be reported, that were in effect at the time. However, the FPPC updates its limits and regulations from time to time and SANBAG would have to process a new amendment to our policy to stay current with the FPPC regulations. Rather than go through that exercise, staff is proposing to adopt the FPPC regulations by reference so that SANBAG policy will be consistent with the most current FPPC regulations (see Attachment #1).

Financial Impact: This action has no direct financial impact.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on May 13, 2009.

Responsible Staff: Duane A. Baker, Director of Management Services

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Approved
Board of Directors

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

ATTACHMENT #1

San Bernardino Associated Governments	Policy	10102
Adopted by the Board of Directors Sept. 2, 1992	Revised	Draft 5/13/09 1/10/07
Conflict of Interest Code	Revision No.	4 3

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Section 8: Disqualification

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Appendix A: Designated Employees

Appendix B: Categories

I. PURPOSE

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission had adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings

II. POLICY

The terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix A in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of SANBAG.

Designated employees shall file statements of economic interests with SANBAG who will make the statements available for public inspection and reproduction (Government Code section 81008). Statements for all designated employees will be retained by the Clerk of the Board of SANBAG.

SANBAG will review this policy every even-numbered year, and if change in the policy is required, will revise the policy. SANBAG will file a statement of review with the San Bernardino County Board of Supervisors every even-numbered year.

Provisions of Conflict of Interest Code

(a) Incorporation by reference of the terms of Regulation 18730 (2 Cal. Code of Regs. 18730) of the Fair Political Practices Commission along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant of Regulation 18730 are as follows: **(1) Section 1. Definitions**

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200, et seq. **[Footnote 1]** Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

(5) Section 5. Statements of Economic Interests: Time of Filing

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All patrons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign 30 Days After Appointment

Persons who resign within 30 days of initial appointment are not defined to have assumed office or left office provided they did not make or participate in the making of, or use their position to influence any

decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an amending or leaving office statement.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interest.

(A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting

Statements of economic interests shall be made on to forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure. When an investment or an interest in real property [Footnote 2] is required to be reported [Footnote 3], the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure. When personal income is required to be reported [Footnote 4], the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported [Footnote 5], the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

~~(D) Business Position Disclosure.~~ When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

~~(E) Acquisition or Disposal During Reporting Period.~~ In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

~~(8) Section 8. Disqualification~~

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

~~(A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;~~

~~(B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;~~

~~(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;~~

~~(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or~~

~~(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.~~

~~(8.3) Section 8.3. Legally Required Participation.~~

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

~~(9) Section 9. Manner of Disqualification~~

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

~~(10) Section 10. Assistance of the Commission and Counsel.~~

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

~~(11) Section 11. Violations.~~

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act,

Government Code Sections 81000–91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

[FOOTNOTES]

Footnote 1: Designated Employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

Footnote 2: For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

Footnote 3: Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

Footnote 4: A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

Footnote 5: Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Appendices A & B

APPENDIX A

APPENDIX B

III. REVISION HISTORY

Revision No.	Revisions	Adopted
0	Amended Conflict of Interest Code for SANBAG approved.	09/02/92
1	Modifications to Appendix A and Appendix B approved.	02/05/97
2	Amendment to Appendix A approved by SANBAG Board of Directors.	04/05/00
3	Appendix A: Removed Advanced Transportation Development Manager	01/10/07
4	<p>Par. I: Added paragraph heading PURPOSE.</p> <p>Par. II: Added paragraph heading POLICY; amended the first paragraph and added two new paragraphs that replace the existing text.</p> <p>Appendix A: Added Construction Manager, Contracts/Controls Manager, and Project Delivery Manager; changed category designation for Board of Directors (City designees, Executive Director, and Chief Financial Officer from Category 2 to Category 1; added clarification that Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the Board of Supervisors, not SANBAG; and revised the descriptions for Category 1 and Category 2.</p>	

Designated Employees	* Categories
1. Board of Directors (County designees)	1
2. Board of Directors (City designees)	2 1
3. Executive Director	2- 1
4. Director of Transit & Rail Programs	2
5. Director of Planning & Programming	2
6. Chief Financial Officer	2 1
7. Director of Freeway Construction	2
8. Director of Intergovernmental & Legislative Affairs	2
9. Director of Management Services	2
10. Director of Air Quality & Mobility Programs	2
11. Public Information Officer	2
12. Construction Manager	2
13. Contracts/Controls Manager	2
14. Project Delivery Manager	2
15. Consultant *	2

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and, thus, is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the Board of Supervisors, not with SANBAG.

*** Category 1**

~~Persons in this category are already required to disclose investments, business positions, income, and interests in real property pursuant to Government Code Section 87202. Therefore, no other or additional disclosure requirements are imposed by this Code.~~

Designated employees in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities. Designated employees in this category shall complete all schedules of Form 700, if applicable.

*** Category 2**

~~Persons in this category shall disclose all investments, business positions, interests in real property, and income.~~

Designated employees in this category shall disclose sources of income, investments, and business positions in business entities which provide services, supplies, materials, machinery or equipment of the type purchased or utilized by the department in which the designated employee is employed. Designated employees in this category shall complete all schedules of Form 700 except schedule B, if applicable.

-
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 6

Date: June 3, 2009

Subject: New Policy Authorizing the Executive Director to Deny Claims Against SANBAG

Recommendation:* Approve new policy No. 10006 giving the Executive Director authority to deny claims against SANBAG (see Attachment #1).

Background: The Executive Director is seeking the authority from the Board of Directors to deny claims against SANBAG when that is deemed the most appropriate response. The Board can grant this authority to the Executive Director pursuant to California Government Code Section 900 et seq.

This action does not give the Executive Director authority to settle claims and that authority will continue to reside with the Board of Directors.

By approving this action, SANBAG will be able to respond to many claims in a more timely fashion and decrease the amount of staff time required to deny a claim.

Financial Impact: This action has no direct financial impact, though it could result in some savings in staff time.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on May 13, 2009.

Responsible Staff: Duane A. Baker, Director of Management Services

*

Approved
Board of Directors

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

ATTACHMENT #1

San Bernardino Associated Governments	Policy	10006
Adopted by the Board of Directors Month Day, Year	Revised	5/13/09 Draft
Authority to Deny Claims Against SANBAG	Revision No.	New 0

Table of Contents

| Purpose | Definitions | Policy | Revision History |

I. PURPOSE

The purpose of this policy is to to authorize the Executive Director to deny claims filed against SANBAG pursuant to Government Code section 900 et seq.

II. DEFINITIONS

None

II. POLICY

The Executive Director is authorized to deny any tort liability claim or action that is filed against SANBAG, its officers or employees pursuant to Government Code section 900 et seq.

- A. All claims received by SANBAG are immediately dated and logged into the agency's official log of all incoming external correspondence. Claims are then immediately submitted to the Clerk of the Board who is responsible for maintaining the records of all claims received by the agency. The Clerk of the Board will submit all claims to the Executive Director for review.
- B. Prior to making a determination to deny, the claim will be reviewed by SANBAG Counsel and Insurance carrier, as appropriate.
- C. SANBAG will review the claims history annually to assess risk.

III. REVISION HISTORY

Revision No.	Revisions	Adopted
0	Adopted by the Board of Directors.	

Minute Action

AGENDA ITEM: 7

Date: June 3, 2009

Subject: Award contract for the Construction and Installation of Detection/Monitoring Stations on State Route (SR) 210

Recommendation:* 1. Award contract No. 08-146 to High-Light Electric, for the Construction of Detection/Monitoring Stations on SR 210, for \$103,700, plus a 10% contingency, for an amount not-to-exceed \$114,070, as outlined in the financial impact section below, and

2. Amend the Fiscal Year (FY) 2008/2009 Budget, to increase Task Number 70609000 by \$114,070 to fund this activity. Funding source Measure I Valley Transportation Management and Environmental Enhancement (TMEE) Funding, as outlined in the financial impact section below.

Background: With the opening of the final segment of SR 210 in 2007, the travel patterns of traffic traveling through San Bernardino and Highland on SR 210 have changed. There is a significant amount of congestion on a regular basis, particularly in the afternoon peak period eastbound between Waterman and Interstate (I) 10.

Even before the opening of the new SR 210 freeway segment, SANBAG, Caltrans and impacted Cities had already begun planning efforts to develop near and long-term improvements to SR 210. In the meantime, it has been acknowledged that

*Approved
Board of Directors*

Date: June 3, 2009

Moved: Second:

In Favor: Opposed: Abstained:

Witnessed: _____

having ongoing, quantifiable data on the traffic impacts to this corridor would assist in the short and long term planning for improvements along SR 210.

The most reliable and immediate way to quantify highway congestion is the installation of detection/monitoring stations along the 11 mile segment. Caltrans has been the responsible entity for the installation, maintenance and information dissemination of detectors in the State. Currently, Caltrans has automated detection on 75 centerline miles of highway in the County out of approximately 1,600 centerline miles of freeway for which Caltrans is responsible. Note the current detection provided by Caltrans is in the valley portion of the County. In order to continue to expand the detection program in the absence of funding, Caltrans District 8 has added detection to its freeways, primarily through the only funding source available to them – the State Highway Operation Protection Program (SHOPP) funds. Recently, Proposition 1B funding provided a one-time funding opportunity through the Corridor Mobility Improvement Account (CMIA) program and as a result, detection will be installed along segments of I 10 and I 15 where it has not previously existed. However, this segment of SR 210 does not have any near term plans for permanent monitoring stations. Therefore, SANBAG staff took the initiative to work with Caltrans to implement permanent monitoring in the near term. Caltrans has in their possession new radar detection monitoring devices that could be installed along SR 210; however, Caltrans does not have the funding to install these devices.

In March 2008, the SANBAG Board authorized staff to release Plans and Specifications authorizing advertisement for bids for this project. Since the stations would be installed on Caltrans right-of-way, it was advised to first seek permits for this work for both SANBAG and ultimately the contractor. Because these types of devices had not been used before in Caltrans District 8, the actual permit process took longer than anticipated. As a result, in February 2009 SANBAG was issued the permits and a request for bids was released. On April 17, 2009, the following bids were received in response to this request (in order of bid):

<u>Bidder</u>	<u>Bid</u>
1. High-Light Electric	\$103,700
2. Moore Electrical	\$115,556
3. Republic ITS	\$121,250
4. Dynaelectric	\$137,289
5. MBI	\$138,000
6. PTM General Engineering	\$144,144
7. Steiny & Company, Inc.	\$157,062
8. Traffic Loops Crackfilling	\$170,300

After review of the eight bids, Staff recommends a contract be awarded to High-Light Electric as the lowest and most responsive bidder. Please refer to the attached Contract and Bid information. Upon contract execution, the Contractor has 120 days to complete the work. In addition, Caltrans has agreed to work closely with SANBAG in the installation of the devices as once installed, Caltrans will be the owner/operator of the devices. In addition, SANBAG will rely on consultants to assist and oversee the installation. Once installed, Caltrans will be the owner/operator of the devices, will collect and gather the data, and will maintain these six stations along with the other devices that they own and operate throughout the Inland Empire. If all goes well, the information gathered as a result of these devices will be made available to the traveling public in late fall 2009.

The funding source most viable for this type of project, is Measure I Valley TMEE funding and funds are sufficient to cover these one-time expenses.

Financial Impact: Although the Request for Bids was approved by the Board prior to release, funds have not been budgeted in the FY 2008/2009 Budget to cover the contract costs. Therefore, Staff recommends an increase to the FY 2008/2009 Budget, TN 70609000 in an amount of \$114,070 – Funding Source Measure I Valley TMEE Funding, to cover expenses associated with the installation of the devices.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Committee at its May 20, 2009 meeting. The contract has been reviewed as to form by SANBAG Legal Counsel.

Responsible Staff: Michelle Kirkhoff, Director of Air Quality/Mobility Programs

SANBAG Contract No. 08-146

by and between

San Bernardino Associated Governments

and

High-Light Electric, Inc.

for

SR 210 Microwave Vehicle Detection System & Tower Installation**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable	Vendor Contract # _____	Retention:	<input checked="" type="checkbox"/> Original
<input type="checkbox"/> Receivable	Vendor ID <u>HLEI</u>	<input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Amendment

Notes:

Original Contract:	\$ <u>103,700.00</u>	Previous Amendments Total:	\$ _____
		Previous Amendments Contingency Total:	\$ _____
Contingency Amount:	\$ <u>10,370.00</u>	Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

Contract TOTAL → \$ 114,070.00

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
<u>706</u>	<u>5553</u>	<u>TMEE</u>	<u>i308</u>	\$ <u>114,700.00</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

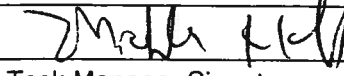
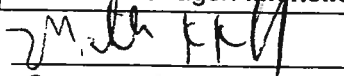

Original Board Approved Contract Date: <u>6/3/09</u>	Contract Start: <u>6/3/09</u>	Contract End: <u>12/31/09</u>
New Amend. Approval (Board) Date: _____	Amend. Start: _____	Amend. End: _____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority →	Fiscal Year: <u>FY 09/10</u> \$ <u>114,070.00</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ _____
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Is this consistent with the adopted budget? ☐ Yes ☒ No
If yes, which Task includes budget authority? _____
If no, has the budget amendment been submitted? ☒ Yes ☐ No

CONTRACT MANAGEMENT**Please mark an "X" next to all that apply:**☐ Intergovernmental ☐ Private ☒ Non-Local ☐ Local ☐ Partly LocalDisadvantaged Business Enterprise: ☐ No ☐ Yes _____ %Task Manager: Michelle KirkhoffContract Manager: Michelle Kirkhoff

	<u>5/12/09</u>		<u>5/12/09</u>
Task Manager Signature	Date	Contract Manager Signature	Date
	<u>5/12/09</u>		
Chief Financial Officer Signature	Date		

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
Microwave Vehicle Detection System and Tower Installations
IN THE CITIES OF SAN BERNARDINO, HIGHLAND, AND REDLANDS, CALIFORNIA**

**Contract No.: C08146
Bid Opening: APRIL 17, 2009**

THIS AGREEMENT, made and concluded, in duplicate, _____ between the San Bernardino County Transportation Authority (referred to hereinafter as "AUTHORITY"), and

High-Light Electric, Inc(referred to hereinafter as "Contractor").

ARTICLE I.--WITNESSETH, That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by AUTHORITY, and under the conditions expressed in the Performance Bond and Payment Bond, bearing even date with these present, and hereunto annexed, the said Contractor agrees with AUTHORITY, at the Contractor's own proper cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the specifications to be furnished by AUTHORITY, necessary to construct and complete in a good, workmanlike and substantial manner and to the satisfaction of AUTHORITY, the work described in the special provisions and the project plans described below, including any addenda thereto, and also in accordance with Caltrans Department of Transportation Standard Plans, dated May 2006, the Standard Specifications, dated May 2006 and all related updates, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished, which said project plans, Standard Plans, Standard Specifications, and Labor Surcharge and Equipment Rental Rates are hereby specially referred to and by such reference made a part hereof.

The Proposal and Contract (dated March 18, 2009), Special Provisions (dated xxx xx, 2008) and on project plans (dated xxx xx, 2008) for the work are entitled:

**CONSTRUCTION OF
MICROWAVE VEHICLE DETECTION SYSTEM AND TOWER INSTALLATIONS
IN THE CITIES OF SAN BERNARDINO, HIGHLAND, AND REDLANDS, CALIFORNIA**

ARTICLE II.--AUTHORITY hereby promises and agrees with the said Contractor to employ, and does hereby employ, the said Contractor to provide materials to do the work according to the terms and conditions herein contained and referred to, for the prices hereinafter set forth, and hereby contracts to pay the same at the time, in the manner and upon the conditions herein set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III.--The State general prevailing wage rates most current edition at the date of the bid opening are hereby made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE IV.--By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE V.-- Contractor agrees to receive and accept the following prices as full compensation for (1) furnishing all materials and for doing all the work contemplated and embraced in this agreement; (2) all loss or damage, arising out of

the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by AUTHORITY, and for all risks of every description connected with the work; (3) all expenses incurred by or in consequence of the suspension or discontinuance of work and; (4) well and faithfully completing the work, and the whole thereof, in the manner and according to the plans and specifications, and the requirements of the Engineer under them, to wit:

**SAN BERNARDINO ASSOCIATED GOVERNMENTS
MICROWAVE VEHICLE DETECTION SYSTEM AND TOWER INSTALLATIONS
BID LIST
CONTRACT C08146**

No.	Description	Quantity	Unit	Unit Price (\$)	Amount (\$)
1.	Construction Site Management	1	LS	\$900.00	\$900.00
2.	Prepare Water Pollution Control Program	1	LS	\$600.00	\$600.00
3	Temporary Drainage Inlet Protection	1	LS	\$500.00	\$500.00
4	Street Sweeping	1	LS	\$1,000.00	\$1,000.00
5	Temporary Concrete Washout (Portable)	1	LS	\$1,000.00	\$1,000.00
6	Portable Changeable Message Sign	1	LS	\$2,000.00	\$2,000.00
7	Clearing and Grubbing	1	LS	\$2,000.00	\$2,000.00
8	Modify Irrigation	1	LS	\$1,100.00	\$1,100.00
9	Highway Planting	1	LS	\$1,100.00	\$1,100.00
10	Microwave Vehicle Detection Station 1	1	LS	\$13,000.00	\$13,000.00
11	Microwave Vehicle Detection Station 2	1	LS	\$13,000.00	\$13,000.00
12	Microwave Vehicle Detection Station 3	1	LS	\$13,000.00	\$13,000.00
13	Microwave Vehicle Detection Station 4	1	LS	\$14,500.00	\$14,500.00

No.	Description	Quantity	Unit	Unit Price (\$)	Amount (\$)
14	Microwave Vehicle Detection Station 5	1	LS	\$14,500.00	\$14,500.00
15	Microwave Vehicle Detection Station 6	1	LS	\$14,500.00	\$14,500.00
16	Integration	1	LS	\$6,000.00	\$6,000.00
17	Mobilization 5.0%	1	LS	\$5,000.00	\$5,000.00
	Total				\$103,700.00

**SAN BERNARDINO ASSOCIATED GOVERNMENTS
MICROWAVE VEHICLE DETECTION SYSTEM AND TOWER INSTALLATIONS
CHANGE WORK UNIT PRICE SCHEDULE
CONTRACT C08146**

The Contractor shall provide the following unit prices for change work during construction. The contract change work unit prices shall include full compensation for furnishing all labor, materials, tools, equipment, overhead, supervision, and incidents, including traffic control, and for doing all the work involved in furnishing, installing and testing, complete in place, including installation under sidewalk areas, under roadway pavement areas, in soil, excavation, backfill, removing surface materials, repair surface material to its original condition including concrete sidewalk and A/C pavement, furnishing fitting, bends, bushings, pull ropes/wires, modification of existing foundations, backfilling, and providing other materials that may be required, as specified in the Standard Specifications and Special Provisions, and directed by the Engineer. No additional compensation shall be allowed.

No.	Description	Quantity	Unit	Unit Price (\$)	Amount (\$)
1.	Furnish and install new 2.5" PVC Sch. 80 conduit – Trench Method	50	LF	\$40.00	\$2,000.00
2.	Furnish and install new 2.5" HDPE Sch. 80 conduit – Directional Drill Method	100	LF	\$40.00	\$4,000.00
3.	Furnish and install new 2.5" RGS conduit – Trench Method	50	LF	\$90.00	\$4,500.00
4.	Replace pull box with new pull box #6	1	EA	\$800.00	\$800.00
5.	Replace pull box with new pull box #6E	1	EA	\$1,200.00	\$1,200.00
6.	Furnish and install new pull box #6	1	EA	\$1,000.00	\$1,000.00
7.	Furnish and install new pull box #6E	1	EA	\$1,400.00	\$1,400.00
8.	Splice Closure	1	EA	\$2,000.00	\$2,000.00

ARTICLE VI.---The undersigned agrees to complete the work within the time period as stipulated in Section 4 of the special provisions.

ARTICLE VII.---The undersigned hereby certifies that he is currently the holder of a valid license as a contractor in the State of California and that the license is the correct class of license for the work described in the project plans and specifications.

ARTICLE VIII

Indemnification - The Contractor agrees to indemnify, defend and hold harmless AUTHORITY, the State of California, Fluor Corporation, and their authorized offices, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts errors or omissions of any person and for any costs or expenses incurred by AUTHORITY, the State of California, Fluor Corporation, and their authorized officers, employees, agents and volunteers on account of any claim therefore, except where such indemnification is prohibited by law.

ARTICLE IX

Insurance - Without in anyway affecting the indemnity herein provided and in addition thereto the Contractor shall, at the Contractor's expense, procure and maintain insurance on all of its operations with companies acceptable to AUTHORITY as follows. All insurance shall be kept in full force and effect from the beginning of the work through final acceptance by AUTHORITY. In addition, the Contractor shall maintain completed operations coverage with a carrier acceptable to AUTHORITY through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the Code of Civil Procedure. The policies shall be written by a California admitted carrier with a Best's rating of B++ or better.

Workers' Compensation and Employer's Liability Insurance - Workers' Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California. Employer's Liability Insurance shall be provided in amounts not less than:

- (a) \$1,000,000 for each accident for bodily injury by accident.
- (b) \$1,000,000 policy limit for bodily injury by disease.
- (c) \$1,000,000 for each employee for bodily injury by disease.

Liability Insurance - The Contractor shall carry General Liability and Umbrella or Excess Liability Insurance covering all operations by or on behalf of the Contractor providing insurance for bodily injury liability, and property damage liability for the limits of liability indicated below and including coverage for:

- (a) premises, operations and mobile equipment.
- (b) products and completed operations.
- (c) broad form property damage (including completed operations).
- (d) explosion, collapse and underground hazards.
- (e) personal injury.
- (f) contractual liability.

Liability Limits/Additional Insureds - The limits of liability shall be at least:

- (a) \$1,000,000 for each occurrence (combined single limit for bodily injury and property damage).
- (b) \$2,000,000 aggregate for products-completed operations.
- (c) \$2,000,000 general aggregate. This general aggregate limit shall apply separately to the Contractor's work under this Agreement.
- (d) \$5,000,000 umbrella or excess liability. For projects over \$25,000,000 only, an additional \$10,000,000 umbrella or excess liability (for a total of \$15,000,000). Umbrella or excess policy shall include products liability completed operations coverage and may be subject to \$5,000,000 or \$15,000,000 aggregate limits. Further, the umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

AUTHORITY, the State of California, Fluor Corporation, and their authorized officers, employees, agents and volunteers, shall be named as additional insureds under the General Liability and Umbrella Liability Policies with respect to liability arising out of or connected with work or operations performed by or on behalf of the Contractor

under this contract. Coverage for such additional insureds shall not extend to liability:

- (1) arising from any defective or substandard condition of the Roadway which existed at or prior to the time the Contractor commenced work, unless such condition has been changed by the work or scope of the work requires the Contractor to maintain existing Roadway facilities and the claim arises from the Contractor's failure to maintain; or
- (2) for claims occurring after the work is completed and accepted unless these claims are directly related to alleged acts or omissions of the Contractor which occurred during the course of the work; or
- (3) to the extent prohibited by Section 11580.04 of the Insurance Code.

The policy shall stipulate that the insurance afforded the additional insureds shall apply as primary insurance. Any other insurance or self insurance maintained by AUTHORITY will be excess only and shall not be called upon to contribute with this insurance. Such additional insured coverage shall be provided by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010, as published by the Insurance Services Office (ISO).

Automotive Liability Insurance – The Contractor shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The primary limits of liability shall not be less than \$1,000,000 combined single limit each accident for bodily injury and property damage. The umbrella or excess liability coverage required under Article IX "Liability Limits/Additional Insureds," shall also apply to automobile liability.

Waiver of Subrogation Rights - Contractor shall require the carriers of the above required coverages to waive all rights of subrogation against AUTHORITY, the State of California, Fluor Corporation, and their authorized officers, employees, agents and volunteers, contractors and subcontractors.

Policy Forms, Endorsements and Certificates – The Contractor's General Liability Insurance shall be provided under Commercial General Liability policy form No. CG0001 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form No. CG0001.

Evidence of insurance in a form acceptable to AUTHORITY, including the required "additional insured" endorsements, shall be furnished by the Contractor to AUTHORITY at or prior to the pre-construction conference. The evidence of insurance shall provide that there will be no cancellation, lapse, or reduction of coverage without thirty (30) days' prior written notice to AUTHORITY. Certificates of Insurance, as evidence of required insurance, for the General Liability, Auto Liability and Umbrella-Excess Liability policies shall set forth deductible amounts applicable to each policy and all exclusions which are added by endorsement to each policy. AUTHORITY may expressly allow deductible clauses, which it does not consider excessive, overly broad, or harmful to interests of AUTHORITY. Standard ISO form No. CG0001 or similar exclusions will be allowed provided they are not inconsistent with the requirements of this section. Allowance of any additional exclusions is at the discretion of AUTHORITY. Regardless of the allowance of exclusions or deductions by AUTHORITY, the Contractor shall be responsible for any deductible amount and shall warrant that the coverage provided to AUTHORITY is consistent with the requirements of this section.

Enforcement – AUTHORITY may take any steps as are necessary to assure Contractor's compliance with its obligations. Should any insurance policy lapse or be canceled during the contract period the Contractor shall, within thirty (30) days prior to the effective expiration or cancellation date, furnish AUTHORITY with evidence of renewal or replacement of the policy. Failure to continuously maintain insurance coverage as herein provided is a material breach of contract. In the event the Contractor fails to maintain any insurance coverage required, AUTHORITY may, but is not required to, maintain this coverage and charge the expense to the Contractor or terminate this Agreement. The required insurance shall be subject to the approval of AUTHORITY, but any acceptance of insurance certificates by AUTHORITY shall in no way limit or relieve the Contractor of the Contractor's duties and responsibilities under the Contract to indemnify, defend and hold harmless AUTHORITY, the State of California, Fluor Corporation, and their authorized officers, employees, agents and volunteers. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude AUTHORITY from taking other actions as is available to it under any other provision of the contract or law. Failure of AUTHORITY to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

Miscellaneous – Nothing contained in the Contract is intended to make the public or any member thereof a third party beneficiary of the Insurance or Indemnity provisions of the Contract, nor is any term, condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

ARTICLE X.---The undersigned agrees to furnish AUTHORITY with a satisfactory Payment Bond in an amount equal to one hundred percent (100%) of the contract amount and a Performance Bond in an amount equal to one hundred percent (100%) of the contract amount. These bonds shall be secured from a surety company or companies satisfactory to AUTHORITY and shall remain in force and effect for a period of one year following the date of filing of Notice of Completion.

ARTICLE XI.---If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Article VIII, Indemnification.

ARTICLE XII.---The parties acknowledge and agree that this Agreement was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Agreement will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

IN WITNESS THEREOF, the parties hereto have caused this contract to be executed on the day and year first above written.

San Bernardino County Transportation Authority

Contractor

By: _____
Gary C. Ovitt
President, SANBAG Board of Directors


By: _____

Date: _____

Date: _____

Approved as to Form and Procedure:

Licensed in accordance with an act providing for registration of contractors:

By: 
Jean-Rene Basle
SANBAG Counsel

License Number

Date: 5-14-09

Federal Employer Identification Number

-
- San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
•San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 8

Date: June 3, 2009

Subject: Agreement with the Riverside County Transportation Commission (RCTC) for the implementation of San Bernardino County Trip Reduction/Ridesharing services, as well as 511 development and implementation

Recommendation: * Approve Agreement No. 09-190 with RCTC, from July 1, 2009, through June 30, 2010, for an amount not-to-exceed \$1,900,500, as outlined in the Financial Impact Section below.

Background: SANBAG has been involved in the funding and implementation of ridesharing and trip reduction services since the agency's inception. In 1993, SANBAG started a bi-county partnership with RCTC to provide implementation of local programs. In Fiscal Year (FY) 2002/2003, SANBAG regional rideshare programs were implemented with the four other county transportation commission's (CTCs). Since that time, SANBAG and the other CTCs introduced several new rideshare products/services, including introduction of Commutesmart.Info website, and a regional Guaranteed Ride Home program. Marketing materials targeting employers were updated/streamlined, and a commute calculator was developed to determine employer and commuter savings from ridesharing. RCTC and its contractors continue to provide outstanding service in the implementation

*

*Approved
Board of Directors*

Date: June 3, 2009

Moved: Second:

In Favor: Opposed: 0 Abstained: 0

Witnessed: _____

of these services and it is recommended they continue these services for FY 2009/2010.

This contract for FY 2009/2010 will include an additional element, the development and implementation of an Inland Empire (IE) 511 program. This was a direction by the SANBAG Board at its May 2009 meeting, to expand the SANBAG contract with RCTC to include this new task. SANBAG and RCTC will share these costs 50/50, which will include the development of a phone/interactive voice recognition system for 511 callers from cellular and land lines, a website, and ongoing operations and maintenance. It is anticipated that the marketing/outreach, to promote the program, will be funded on behalf of RCTC and SANBAG through funding from the Mobile Source Air Pollution Reduction Review Committee. Since that funding source is restricted to activities in the San Bernardino Valley, additional funds may be used to promote the program in the High Desert area.

The contract as well as scope of work, including these new 511 responsibilities, is outlined in Attachment A. A brief summary of the services provided by RCTC (through its various contractors), include services for employers and commuters within the County:

1. Employer Services (\$727,500), to include:
 - a. Technical and programmatic assistance to county employers;
 - b. Maintenance of a regional commuter database;
 - c. Survey and rideguide dissemination;
 - d. Expanded Teleservices function, responding to 511 as well as other phone, FAX and internet inquiries from commuters and employers;
 - e. Outreach, marketing campaigns, promotional efforts, including 511;
 - f. Special projects and one time studies/surveys; and
 - g. Coordination and participation on local, regional and state committees.
2. Rideshare incentive and reward programs (\$673,000), to include:
 - a. Option Rideshare incentive program for new ridesharers which try a rideshare mode for a 3 month trial period;
 - b. a nine month staggered vanpool incentive; and

- c. the Team Ride reward program for ongoing ridesharers.
- 3. Development/implementation of 511 services (\$500,000), to include:
 - a. Development, testing, implementation and ongoing operations of a robust phone and web 511 system that will be available to commuters 24 hours a day, 7 days per week, 365 days per year;
 - b. Services will provide information throughout all of Southern California, at no charge to the user;
 - c. Marketing/outreach during launch as well as throughout the fiscal year, to enhance/supplement marketing provided by Los Angeles 511; and,
 - d. Interoperability with neighboring systems to provide seamless 511 services to the commuting public.

The only anticipated rideshare element to be implemented in FY 2009/2010 and not executed through the RCTC contract, will be certain regional marketing activities. These activities will be implemented on behalf of the region by the Los Angeles Metropolitan Transportation Authority (Metro). In addition, there may be some additional minor unanticipated contracts and/or Purchase Orders needed for the implementation of the 511 program.

The county trip reduction/rideshare program is funded through federal Congestion Mitigation/Air Quality (CMAQ) funds, which were allocated by the SANBAG Board on October 5, 2005. The rideshare program funding has also been programmed in the Regional Transportation Improvement Program and is included in the Regional Transportation Plan. As a transportation control measure, ridesharing strategies are needed in order to assist the region in meeting its air quality and transportation conformity goals.

Financial Impact: The total contract amount is \$1,900,500, and is consistent with the FY 2009/2010 Budget. Funding sources are Measure I Valley Traffic Management and Environmental Enhancement Funds (\$217,987) and CMAQ (\$1,682,513). Task Numbers 40610000.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Committee on May 20, 2009. SANBAG Counsel has approved this contract as to form.

Responsible Staff: Michelle Kirkhoff, Director of Air Quality/Mobility Programs

BRD0906c-MMK.doc
Attachment: C09190.doc
TN 40609000

SANBAG Contract No. 09-190

by and between

San Bernardino Associated Governments

and

Riverside County Transportation Commission

for

Implementation of FY 2009/10 Trip Reduction/Rideshare and 511 Program

FOR ACCOUNTING PURPOSES ONLY

☒ Payable

☐ Receivable

Vendor Contract # _____

Vendor ID RCTC

Retention:

☐ Yes _____ % ☐ No

☒ Original

☐ Amendment

Notes:

Original Contract: \$ 1,900,500

Previous Amendments Total: \$ _____

Previous Amendments Contingency Total: \$ _____

Contingency Amount: \$ _____

Current Amendment: \$ _____

Current Amendment Contingency: \$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

Contract TOTAL → \$ 1,900,500

↓ Please include funding allocation for the original contract or the amendment.

<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>
<u>406</u>	<u>6506</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 358,215</u>
<u>406</u>	<u>6506</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 119,405</u>
<u>406</u>	<u>6506</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 61,881</u>
<u>406</u>	<u>6504</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 304,765</u>
<u>406</u>	<u>6504</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 101,588</u>
<u>406</u>	<u>6504</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 52,647</u>
<u>406</u>	<u>6514</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 142,091</u>
<u>406</u>	<u>6514</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 47,364</u>
<u>406</u>	<u>6514</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 24,546</u>
<u>406</u>	<u>6516</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 33,199</u>
<u>406</u>	<u>6516</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 11,066</u>
<u>406</u>	<u>6516</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 5,735</u>
<u>406</u>	<u>6512</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 49,798</u>
<u>406</u>	<u>6512</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 16,599</u>
<u>406</u>	<u>6512</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 8,603</u>
<u>406</u>	<u>6508</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 41,830</u>
<u>406</u>	<u>6508</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 13,943</u>
<u>406</u>	<u>6508</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 7,226</u>
<u>406</u>	<u>5553</u>	<u>SCAB CMAQ</u>	<u>662</u>	<u>\$ 331,988</u>
<u>406</u>	<u>5553</u>	<u>MDAB CMAQ</u>	<u>661</u>	<u>\$ 110,663</u>
<u>406</u>	<u>5553</u>	<u>Measure I-TMEE</u>	<u>i308</u>	<u>\$ 57,350</u>

Original Board Approved Contract Date: 6/3/09

Contract Start: 07/01/09

Contract End: 6/30/10

New Amend. Approval (Board) Date: _____

Amend. Start: _____

Amend. End: _____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority → Fiscal Year: 2009/10
\$ 1,900,500

Future Fiscal Year(s) –
Unbudgeted Obligation → \$ _____

Is this consistent with the adopted budget? ☒ Yes ☐ No

If yes, which Task includes budget authority? 40610000 and 51110000

If no, has the budget amendment been submitted? ☐ Yes ☐ No

CONTRACT MANAGEMENT

Please mark an "X" next to all that apply:

☒ Intergovernmental ☐ Private ☐ Non-Local ☐ Local ☐ Partly Local

Disadvantaged Business Enterprise: ☒ No ☐ Yes _____%

Task Manager: **Michelle Kirkhoff**

Contract Manager: **Marla Modell**

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

Filename:

**AGREEMENT BETWEEN
SAN BERNARDINO ASSOCIATED GOVERNMENTS
AND
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
FOR
IMPLEMENTATION OF SAN BERNARDINO COUNTY FISCAL YEAR
2009/2010 EMPLOYER AND COMMUTER
TRIP REDUCTION/RIDESHARE PROGRAMS**

THIS AGREEMENT ("Agreement") is entered into as of this 1st day of July 2009, in the State of California by and between SAN BERNARDINO ASSOCIATED GOVERNMENTS, referred to herein as "SANBAG," and the RIVERSIDE COUNTY TRANSPORTATION COMMISSION, referred to herein as "RCTC."

WHEREAS, SANBAG approved allocation of Measure I - Valley Traffic Management and Environmental Enhancement (TMEE) funds and Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy to Users (SAFE-TEA LU) Congestion Mitigation and Air Quality (CMAQ) funds, the allocation of SAFE-TEA LU (initially approved in October of 2005 by SANBAG board), to provide trip reduction services as well as incentives for the commuter programs; and,

WHEREAS, RCTC is a sub recipient of SANBAG SAFE-TEA LU funds, and shall adhere to the Catalog of Federal Domestic Assistance Title No. 20.205; and,

WHEREAS, SANBAG requires professional and consulting services with respect to the provision of commuter services and programs within San Bernardino County;

WHEREAS, RCTC has managed the bi-county Inland Empire Commuter Services program since November 3, 1993, as well as employer outreach and regional programs/services since July 1, 2002, and has the expertise and resources necessary to manage such services for SANBAG; and,

WHEREAS, the RCTC Commission and SANBAG Board approved a bi-county implementation of a 511 program and RCTC possesses the expertise and resources needed to develop, implement and maintain a service for the Inland Empire.

NOW, THEREFORE, the parties agree as follows:

A. Contract Services.

1. RCTC will administer, market, and implement a commuter services program in coordination with RCTC's commuter services program and in coordination with the regional ridesharing core services program in compliance with and as specified in the scope of work, Attachment "A," attached hereto and incorporated herein by reference.

2. RCTC shall provide program administration and oversight and assure that its consultants and/or staff performs its services within the budgets set forth in the scope of work, Attachment "A."

3. RCTC shall provide SANBAG with a monthly statistical report of progress relative to tasks identified in the scope of work, Attachment "A", to this Agreement and in such detail as may be approved by SANBAG.

B. Compensation.

1. It is understood that SANBAG funding for the program under this Agreement will not exceed one million nine hundred thousand, five hundred dollars and no cents (\$1,900,500.00) and is being provided from the following sources:

(a) One million six hundred and eighty-two thousand, five hundred and thirteen dollars and no cents (\$1,682,513.00) from CMAQ funds, and

(b) Two hundred and seventeen thousand, nine hundred and eighty-seven dollars and no cents (\$217,987.00) from San Bernardino County local ½ cent sales tax, Measure I-Valley Traffic Management and Environmental Enhancement (TMEE) funds.

2. RCTC shall follow all federal laws, regulations, as well as requirements imposed by SANBAG, as it pertains to the expenditure of SAFE-TEA LU funds as well as their subrecipient status. RCTC shall meet the Single Audit and Office of Management and Budget (OMB) Circular No. A-133 requirements for this fiscal year.

3. It is agreed that SANBAG Measure I - TMEE will reimburse RCTC for the cost of purchasing any items not reimbursable by CMAQ, and invoices submitted to SANBAG shall clearly delineate CMAQ non-reimbursable expenditures. It is agreed that in the event sufficient funds from the sources set forth in (a) and (b) above do not become available to SANBAG for this Agreement, SANBAG may immediately terminate this Agreement with written notice, but shall pay to RCTC from other sources any amounts required to cover RCTC's costs to the date of Agreement termination.

4. SANBAG shall pay RCTC on a cost-reimbursement basis, based upon invoices which delineate charges based on tasks identified in the scope of work, Attachment "A." All invoices shall be provided to SANBAG no more frequently than on a bi-monthly basis and no less than a quarterly basis.

5. SANBAG shall be fully responsible for obtaining cost reimbursements of CMAQ funds. SANBAG shall monitor RCTC, as necessary, to ensure that the SAFE-TEA LU funds are used for authorized purposes in compliance with laws, regulations, and the provision of the terms in this agreement, and that performance goals are achieved. RCTC shall provide to SANBAG its annual audit report and should there be any findings, RCTC shall ensure SANBAG that it has taken all appropriate and timely corrective action.

6. SANBAG shall review all billings submitted by RCTC for accuracy and process payment based thereon to RCTC in a timely manner.

7. RCTC shall maintain during the term of this Agreement and for three years thereafter accounting records which cover the receipt and disbursement of all funds provided for the programs administered and implemented under this Agreement. Such records shall be made available for inspection during normal business hours by duly authorized representatives of SANBAG, SANBAG's auditors, Caltrans, Federal Highway Administration, and the United States Department of Transportation, so that SANBAG can comply with the Single Audit Act and OMB Circular No. A-133.

C. Term.

1. This Agreement shall commence on July 1, 2009 and terminate on June 30, 2010, unless it is extended by a written amendment approved by the parties.

2. Either party may terminate this Agreement by giving thirty (30) days written notice to the other for no or any reason, including, but not limited to, changes in legislation, rules and regulations impacting trip reduction programs. SANBAG shall pay for any service provided up to the effective date of the termination.

3. The Executive Directors of both RCTC and SANBAG shall have the authority in their sole discretion to give notice of termination on behalf of their respective agencies.

D. Indemnification and Insurance.

1. (a) It is understood and agreed that neither RCTC nor any officer, official, employee, director, consultant, agent, or volunteer thereof is responsible for any damage or liability occurring by reasons of anything done or omitted to be done by SANBAG under or in connection with any work authority or jurisdiction delegated to SANBAG under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, SANBAG shall fully defend, indemnify and save harmless RCTC, and all its officers, employees, consultants and agents from all claims, suits or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement.

(b) It is understood and agreed that neither SANBAG nor any officer, official, employee, director, consultant, agent, or volunteer thereof is responsible for any damage or liability occurring by reasons of anything done or omitted to be done by RCTC under or in connection with any work authority or jurisdiction delegated to RCTC under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, RCTC shall fully defend, indemnify and save harmless SANBAG, and all its officers, employees, consultants and agents from all claims, suits or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by RCTC or its consultants under or in connection with any work, authority or jurisdiction delegated to RCTC under this Agreement.

2. Commercial General Liability Insurance. RCTC and its consultants shall maintain occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. Such insurance shall:

(a) Name SANBAG, its officials, officers, employees, agents, and consultants as insured with respect to performance of Services. Such insured status shall contain no special limitations on the scope of its protection to the above-listed insured.

(b) Be primary with respect to any insurance or self insurance programs covering SANBAG, its officials, officers, employees, agents, and consultants.

(c) Contain standard separation of insured provisions.

3. Business Automobile Liability Insurance. RCTC and its consultants shall maintain business automobile liability insurance or equivalent form with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

4. Workers' Compensation Insurance. RCTC and its consultants shall maintain workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000 per accident.

5. Certificates/Insurer Rating/Cancellation Notice.

(1) RCTC and its consultants, prior to commencement of the Services, shall furnish and require its subcontractors to furnish to SANBAG properly executed certificates of insurance, and certified copies of endorsements, and policies if requested by SANBAG, which shall clearly evidence all insurance required in this Section. RCTC and its consultants shall not allow such insurance to be canceled, allowed to expire or be materially reduced in coverage except on 30 days prior to written notice to SANBAG.

(2) RCTC shall maintain and shall require its consultants to maintain such insurance from the time the Services commence until the Services are completed, except as may be otherwise required by this Section.

(3) RCTC may legally self insure, but shall require its consultants to place insurance with insurers having an A.M. Best Company rating of no less than A: VIII and licensed to do business in California.

(4) RCTC and its consultants shall replace certificates, policies and endorsements for any insurance expiring prior to completion of the Services.

E. Rights of SANBAG and RCTC.

The Executive Directors of both SANBAG and RCTC shall have full authority to exercise their respective entity's rights under this contract.

F. Ownership of Materials/Confidentiality/Use of Data.

(1) Ownership. All materials and data, including data on magnetic media, prepared by RCTC under this Agreement shall become the common property of the RCTC and SANBAG. RCTC and SANBAG shall not be limited in any way in its use of such data at any time, provided that any such use not within the purposes intended by this Agreement shall be at the respective party's sole risk and provided that the other party shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement. Neither party to this Agreement shall sell the data or other materials prepared under this Agreement without the written permission of both parties.

(2) Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials described in subsection (1) either created by or provided to RCTC in connection with the performance of this Agreement shall be held confidential by RCTC. Such materials shall not, without the prior written consent of SANBAG, be used by RCTC for any purposes other

than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services. Nothing furnished to RCTC that is otherwise known to RCTC or is generally known, or has become known, to the related industry shall be deemed confidential. RCTC shall not use SANBAG's name or insignia, photographs of the project, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of SANBAG.

(3) Use of Data. All data shall be provided to SANBAG in hard copy and electronic media. Data in electronic media shall be provided in a form that will allow SANBAG to use, access, and manipulate the data to prepare reports and perform other ridematching activities contemplated by this Agreement.

G. Independent Contractor. SANBAG retains RCTC on an independent contractor basis and RCTC and its consultants shall not be employees of SANBAG. The consultants and other personnel performing the Services under this Agreement on behalf of RCTC shall at all times be under RCTC's exclusive direction and control. RCTC shall pay all wages, salaries, and other amounts due its employees in connection with their performance of Services under this Agreement and as required by law. RCTC shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

H. Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Paragraph 3E, Indemnification and Insurance.

I. Consent. Whenever consent or approval of any party is required under this Agreement, that party shall not unreasonably withhold nor delay such consent or approval.

IN WITNESS THEREOF, THE AUTHORIZED PARTIES HAVE BELOW SIGNED AND EXECUTED THE AGREEMENT ON THE EFFECTIVE DATE:

SAN BERNARDINO ASSOCIATED
GOVERNMENTS


RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

Gary C. Ovitt, President

Bob Magee, Chairman

APPROVED AS TO FORM FOR SANBAG

APPROVED AS TO FORM FOR RCTC



Jean-Rene Basle, SANBAG Counsel

Best, Best & Krieger, RCTC Counsel

Scope of Work
San Bernardino Employer and Commuter Assistance Programs
Fiscal Year 2009-10

Inland Empire Rideshare Services

Provide a variety of services to employers and commuters, who participate in trip reduction activities. Activities shall include, but not be limited to: RideGuide/survey services, employer technical assistance, promotions, RideGuide production, coordination/dissemination of surveys and resulting report analysis for target marketing, Rideshare Connection broadcast e-mails, CommuteSmart News, networking meetings and coordination with other rideshare agencies and service providers. Assist multi-site and multi-jurisdictional headquarters employers within the County as well as related worksites outside of the County. Oversee and maintain a regional website (CommuteSmart.info) and other regional products/outreach as assigned. Respond to inquiries generated from 511, 1-800-COMMUTE, 1-866-RIDESHARE, CommuteSmart.info, as well as direct referrals. Oversee and maintain a regional database of commuters, working with the five county transportation commission's (CTCs) throughout the region. Market the regional Guaranteed Ride Home Program to employers in San Bernardino County. Assist in the County's leased Park'N'Ride lot program. Conduct special projects and studies, as assigned.

Related Expenses (\$727,500):

Includes labor, office expenses, marketing materials, office equipment, computer programming, telephone and other direct expenses.

Goals:

1. Implementation of commuter assistance programs to approximately 380 regulated and non-regulated employer worksites in San Bernardino County, to assist in the development and implementation of trip reduction programs and for technical assistance.
2. Work with 90 employers on AVR/Transportation surveys and AVR calculations.
3. Maintain an accurate database of 60,000 active San Bernardino County commuter registrants, resulting from completed commuter surveys at 90 San Bernardino County employers.
4. Disseminate 16,000 RideGuides to San Bernardino County commuters at 380 worksites.
5. Provide assistance to five multisite/multijurisdictional headquarters located in San Bernardino County representing 21 worksites in San Bernardino, Riverside, as well as Los Angeles and Orange counties.
6. Develop and implement three employer transportation network meetings, one promotional marketing campaign at San Bernardino employer worksites, and other events.
7. Produce and disseminate other regional marketing materials, as standalone campaigns within the Inland Empire or regional campaigns in coordination with the five CTCs.
8. Broadcast 14 Rideshare Connection e-mails to San Bernardino County employers.
9. For the two-county area, respond to 4,000 inquiries/calls from commuters who work or reside in San Bernardino or Riverside counties, via 1-866-RIDESHARE, 1-800-COMMUTE, CommuteSmart.info, 511, direct referrals and other internet sources. Of these 4,000 inquiries,

1,200 RideGuides will be generated. In addition, 700 Inland residents will register in the database via the www.CommuteSmart.info and the 511 website.

Rideshare Incentive Programs

Option Rideshare offers San Bernardino County residents who commute to work, up to \$2 a day (in local merchant gift cards) for each day they participate in a rideshare mode, during a three-month period. The Vanpool Incentive Program provides up to \$1,800 over nine months in discounted vanpool fares. Team Ride provides ongoing ridesharers who reside in San Bernardino County a discount membership card to over 450 restaurants, as well as entertainment venues throughout the southland.

Related Expenses (\$673,000):

Includes labor, office expenses, marketing materials, office equipment, computer programming, telephone, direct commuter incentives (gift cards/ subsidies) and other direct expenses.

Goals:

1. The Option Rideshare program will enlist 1,500 County residents, who commute to work to 170 employers in Southern California. These participants on average have a one-way commute distance of 27.59 miles and the goal is to reduce 150,000 one way vehicle trips from the roadways.
2. Team Ride registrants will consist of 7,600 members by the end of December 2009, when the program is at its highest membership. Members will work at employment sites from 380 employers throughout Southern California.

Development and Implementation of a 511 Phone/Web Program

Develop and implement a comprehensive 511 telephone and web based program, which will provide traveler information and commute alternatives to the Inland Empire resident and motorist. The baseline telephone system will serve customers dialing from all land lines and all cellular calls within the county boundaries of the Inland Empire, as well as website. Phone services provided include a traffic interactive voice recognition (IVR), a transit IVR which routes callers to transit provider operated call centers, rideshare information routes callers to a RCTC/SANBAG operated call center and other recordings or transfers to other public service providers. The website will provide similar services that are available on the phone system, as well as on-line, multi-modal transit/rail trip planning, rideshare counseling, ridematching services, regionwide traffic maps with comprehensive information from Caltrans and the California Highway Patrol with a Google Map interface and a rideshare benefits calculators for employers and individuals. Market and promote the program, in coordination with any Los Angeles 511 outreach and marketing.

Related Expenses (\$500,000):

Includes labor, office expenses, marketing and promotional materials, consulting fees, office equipment, computer programming, hardware and software, telephone and other direct expenses.

Goals:

1. By October 1, 2009, develop and implement a robust phone and web 511 system.
2. Upon implementation, manage and operate the system which will be available to commuters 24 hours a day, 7 days per week, 365 days per year.
3. Phone system will provide assistance to 7,200 callers upon launch per month, and may reach 16,000 callers per month after outreach/promotion. The system will have the capacity to handle 100,000 concurrent callers.
5. Assure interoperability with neighboring systems, including Los Angeles, Orange, Ventura, Kern and San Diego Counties, as well as Arizona and Nevada 511 systems.
4. Website will realize at startup 1,500 visitors per month, with up to 6,400 visitors per month by the end of the year after outreach/promotions. Website will be able to handle 100,000 concurrent users.
5. Marketing/outreach during launch as well as throughout the fiscal year, to enhance/supplement marketing provided by Los Angeles 511.
6. Conduct periodic surveys to determine program use, effectiveness and customer satisfaction.
7. Work with Caltrans to establish 511 signage on the Inland Empire highways and freeways.

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 9

Date: June 3, 2009

Subject: Quarterly Administrative Report on SANBAG Federal Funding Programs

Recommendation:*

- 1) Receive report on quarterly reporting and obligation status.
- 2) Adopt a finding of compliance with obligation requirements for all affected agencies.

Background: Assembly Bill 1012 (AB1012) requires SANBAG to monitor and report to Caltrans on the use of Congestion Mitigation and Air Quality (CMAQ) and Regional Surface Transportation Program (RSTP) funds apportioned to San Bernardino County and allocated by the SANBAG Board. Federal funds apportioned to SANBAG are eligible for obligation for three years. Obligation refers to a commitment by the Federal Highway Administration (FHWA) to reimburse an agency for an authorized amount of federal funds for a specific project. After three years, unobligated apportionments are subject to reprogramming and loss to SANBAG and its member agencies.

Because of SANBAG's requirement to manage the timely use of funds to avoid loss of funding pursuant to the provisions of AB1012, the SANBAG Board established a protocol that requires recipients of federal funds allocated by SANBAG to enter into contracts with SANBAG. These contracts include a description of the scope of the approved project, the amount of federal fund allocation, and the schedule of project implementation. In addition, the terms of the contracts require federal fund recipients to submit quarterly progress reports on their projects to SANBAG until completion of the project. In accordance with adopted SANBAG policy, failure to comply with any

*

Approved
Board of Directors

Date: June 3, 2009

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

provision of the contract constitutes grounds for revocation and reallocation of the funding by action of the SANBAG Board pursuant to the protocol specified in each contract.

Quarterly Reporting Status

Tables 1 – 3 summarize the projects to which funds were allocated, their quarterly reporting history, and the status of the project. All agencies required to report to SANBAG on the status of their projects submitted quarterly reports by April 15th as required by the terms of their contract.

Obligation Status

As mentioned earlier, federal funds are available for obligation for three years from the date of apportionment. As of September 30, 2008, SANBAG has met AB1012 requirements for federal fiscal year 2006. Please refer to attached Caltrans Local Assistance "Apportionment Status Report" for apportionment balances for both CMAQ and STP funds. According to schedules provided by project sponsors in the quarterly reporting, SANBAG will meet the obligation requirements for fiscal year 08/09, as well.

As was reported to the SANBAG Board in June 2006, Caltrans has developed an Obligational Authority (OA) Management Policy that limits annual obligations to annual OA levels on a county-by-county basis. Because annual apportionments are almost always higher than annual OA levels, OA being the mechanism to access the apportionments, it is inevitable that SANBAG will eventually lose a portion of past apportionments through AB1012. In addition, FHWA has been issuing rescissions of federal apportionments. An analysis of the projected impacts of the OA Management Policy and the federal rescissions is necessary before allocation of additional funds.

Financial Impact: Funding for SANBAG's monitoring of local assistance project status is consistent with the adopted SANBAG Budget Task No. 37309000. The absence of critical project status and progress information provided in quarterly reports could result in SANBAG's inability to assure timely obligation of funds to avoid loss to the agency and its members.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Mountain Desert Committee on May 15, 2009, and the Plans and Programs Committee on May 20, 2009.

Responsible Staff: Ty Schuiling, Director of Planning and Programming

TABLE 1
Congestion Mitigation and Air Quality Program Status
Mojave Desert Air Basin

Quarterly Reporting Status

Lead Agency	Project Description	Contract Number	Programmed Amount	Program Year	Target Oblig.	Obligated Amount	2008 Quarterly Reports				Comments
							1	2	3	4	
Adelanto	Adelanto/Auburn/Jonathan Paving	01-052	\$224,000	09/10	2/10	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 2/10
Barstow Transit	3 - 32' CNG Replacement Vehicles	20041903	\$418,747	08/09	7/09	\$0	Apr-08	Jul-08	Oct-08	Jan-09	To be obligated by end of FFY
MARTA	Replacement Paratransit Vehicle Purchase	200423	\$224,200	08/09	8/09	\$0	Apr-08	Jul-08	Oct-08	Jan-09	To be obligated by end of FFY
MBTA	2 - 32' CNG Replacement Vehicles	20040812	\$274,797	09/09	7/09	\$0	Apr-08	Jul-08	Oct-08	Jan-09	To be obligated by end of FFY
Victorville	Park & Ride at Victor Valley College	01-048	\$650,000	09/10	11/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 8/09
Victorville	I-15/Amargosa Park-n-Ride Lot Expansion	00-107	\$639,101	09/10	11/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 10/09
Victorville	Bear Valley Road / Fish Hatchery Rd Signal	20041201	\$180,000	09/10	11/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 7/09
WVTA	Replace Alt. Fuel Paratransit Vehicles	SBD41114	\$1,136,725	08/09	7/09	\$265,590	Apr-08	Jul-08	Oct-08	Jan-09	To be obligated by end of FFY
TOTALS			\$3,747,570			\$265,590					

Obligation Status

Fiscal Year 08/09:

Obligated Amount to Date* \$ 265,590
Additional Obligation Scheduled by 10/09 \$2,054,469

NOTES:

* - Includes projects with closed contracts and projects funded through Board set-asides

** The obligation of CMAQ apportionments is not monitored by Air Basin, therefore, over-obligation in the SCAB compensates for under-obligation in the MDAB

TABLE 2
Congestion Mitigation and Air Quality Program Status
South Coast Air Basin

Quarterly Reporting Status

Lead Agency	Project Description	Contract Number	Programmed Amount	Program Year	Target Oblig	Obligated Amount	2008 Quarterly Reports				Comments
							1	2	3	4	
Caltrans	I-215 - I-10 to SR 30 HOV Lanes & Op Improvements	713	\$53,939,000	08/09	8/09	\$53,939,000	Apr-09	Jul-08	Oct-08	Jan-09	Obligated 5/09
Colton	Washington St at Reche Cyn & Hunts Ln Mitigation	00-102		09/10	8/10	\$60,000	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 11/09
San Bernardino	Metrolink Parking Structure	20020802	\$400,000	08/09	7/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON submitted 4/09
SANBAG	Rideshare Program for South Coast Air Basin	20040827	\$6,083,000	08/09	8/10	\$6,083,000	Apr-09	Jul-08	Oct-08	Jan-09	Obligated 11/08
SANBAG	Valley Traffic Signal Coordination - Tier 2	2001014	\$1,752,724	08/09	7/09	\$1,752,724	Apr-09	Jul-08	Oct-08	Jan-09	Oblig. 9/08, Remaining \$724,246 moved to Tier 3&4 for PS&E
SANBAG	Valley Traffic Signal Coordination - Tier 3 & 4	20061502	\$5,000,000	08/09	7/09	\$1,000,000	Apr-09	Jul-08	Oct-08	Jan-09	RFA-PSE to be submitted 6/09
Upland	Upland Metrolink Station - Parking Expansion	20040825	\$2,778,800	10/11	3/11	\$0	Apr-09	*	Oct-08	Jan-09	RFA- CON to be submitted 11/10
	TOTALS		\$106,539,824			\$92,814,724					

Obligation Status

Fiscal Year 08/09:

Obligated Amount to Date* \$92,814,724
Additional Obligation Scheduled by 10/09 \$ 8,608,000

NOTES:

*. Includes projects with closed contracts and projects funded through Board set-asides

** The obligation of CMAQ apportionments is not monitored by Air Basin, therefore, over-obligation in the SCAB compensates for under-obligation in the MDAB

TABLE 3
Regional Surface Transportation Program Status

Quarterly Reporting Status

Lead Agency	Project Description	Contract Number	Programmed Amount	Program Year	Target Oblig.	Obligated Amount	2008 Quarterly Reports				Comments
							1	2	3	4	
Adelanto	El Mirage Rehab. & Paving - West City Limits to US395	01-036	\$1,375,466	09/10	6/10	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 3/2010
Caltrans	I-215 - I-10 to SR30 HOV Lanes & Op Improvements	713	\$64,157,000	08/09	6/09	\$64,157,000	Apr-09	Jul-08	Oct-08	Jan-09	Obligated 5/1/09
Colton	Main Street and Iowa Avenue Intersection Improvements	01-077	\$230,000	09/10	10/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-ROW to be submitted 8/09
Hesperia	Ranchero Rd Grade Separation	SBD031276	\$3,650,000	09/10	3/10	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 1/10
San Bernardino	State St-16th St to Foothill-Extend 2 lanes	01-082	\$1,925,000	09/10	3/10	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-ROW to be submitted 1/10
SB County	SB County 110% Minimum Guarantee	SBCMG	\$6,566,214	08/09	7/09	\$5,471,845	Apr-09	Jul-08	Oct-08	Jan-09	Partially obligated
SB County	Flamingo Heights Lander Rd	20061705	\$2,200,000	08/09	8/09	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-PE to be submitted 7/09
SB County	Needles Hwy-N St to Nevada StateLine-Realign, Rehab	01-033	\$1,434,865	09/10	5/10	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-CON to be submitted 3/10
SB County	National Trails Hwy - Passing Lanes	01-038	\$1,597,284	10/11	6/11	\$0	Apr-09	Jul-08	Oct-08	Jan-09	RFA-ROW to be submitted 4/11
	TOTALS		\$83,135,829			\$69,628,845					

Obligation Status

Fiscal Year 08/09:

Obligated Amount to Date* \$69,628,845
Additional Obligation Scheduled by 10/09 \$3,294,369

NOTES:

* - Includes projects with closed contracts and projects funded through Board set-asides

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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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Minute Action

AGENDA ITEM: 10

Date: June 3, 2009

Subject: Congestion Mitigation and Air Quality (CMAQ) and Regional Surface Transportation Program (RSTP) Apportionment Balances and Obligation Authority Delivery Status for Fiscal Year (FY) 2008/09

Recommendation:* Receive status report on CMAQ and RSTP Apportionment Balance and Obligation Authority (OA) delivery for FY08/09

Background: For FY 2008/09, SANBAG received a \$27.3 million CMAQ apportionment that brought SANBAG's accumulative CMAQ apportionment balance from SAFETEA-LU to \$69.7 million. SANBAG also received a \$19.4 million (RSTP) apportionment, excluding the \$1,094,369 state cash exchange for the County of San Bernardino. This brought SANBAG's accumulative RSTP apportionments from SAFETEA-LU to \$42.8 million. Under federal guidelines the apportionments must be obligated within four years, after which the funds will lapse and no longer be available for obligation. However, for California under Assembly Bill 1012 (AB1012), the State took an extra step to ensure that no funds lapsed. AB1012 reduces the region's available apportionment time period from four years to three years. After three years, the state can take the unused regional apportionments to use on its own projects. Caltrans Headquarters Local Assistance provides annual AB1012 reports to assist regions in timely use of their funds.

Obligation Authority (OA) is needed to obtain the apportioned funds. As of March 31, 2009, SANBAG had a total of \$58.7 million in available OA. The OA sets the true federal reimbursement level and is usually lower than apportionment level. At the state level the OA cannot be carried from year to year. In order to obligate federal funds for a project, the region must provide the same levels of apportionments and

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Approved
Board of Directors

Date: June 3, 2009

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

OA. While apportionments are categorized by air basins for CMAQ and urban region boundaries for RSTP, OA is not geography specific and are shared by both CMAQ and RSTP. In meeting the AB1012 requirements (three years) and to preserve OA (one year) to be used within the regions, Caltrans Local Assistance established a statewide OA Management Policy. The policy benefits regions that can exceed their delivery commitments through the following process:

1. Allow regions to borrow OA from one another to enable them to deliver larger projects that require more OA than annual allocations.
2. Allows Caltrans to adjust OA distribution based on interregional loans.
3. After May 1 of each year, a statewide local OA pool is established for regions to use on a "first-come-first serve" basis.
4. After May 1, regions that have exhausted their annual OA share can tap into the statewide OA pool to obligate more funds. At the same time, if regions have apportionments available, advance construction funds can be converted to true reimbursement funds, also known as AC Conversion.
5. In August of each year, FHWA may give out additional OA that other states are not able to use. The process is called the "August Redistribution".

On March 20, 2009, SANBAG submitted its Fiscal Year 2008/09 OA Delivery Plan with an OA delivery target of \$92.5 million, an aggressive 146% delivery goal. As of April 30, 2009, SANBAG delivered \$89 million in OA, a 141% delivery. The early delivery of the I-215 project allowed SANBAG to tap into the local OA pool and enabled AC conversion to occur a few years earlier. It is also possible that SANBAG could receive free OA during the August Redistribution this year. Early AC conversion allowed SANBAG to get federal reimbursement early and helps the agency's cash flow management. Additional OA gained through the local OA pool and the August Redistribution allows the agency to reduce the gap between apportionments and actual OA levels so that SANBAG can deliver more federal aid projects.

Financial Impact: Over \$23 million in OA conversion frees funds to be programmed on other projects. It is unclear how much additional OA SANBAG might gain through the August redistribution. Exceeding 100% OA delivery reduces the gap between apportionments and OA, which allows regions to tap into more federal funds.

Reviewed By: This item was reviewed by the Plans and Programs Committee on May 20, 2009.

Responsible Staff: Wendy Li, Chief of Programming
Ty Schuiling, Director of Planning and Programming

Minute Action

AGENDA ITEM: 11

Date: June 3, 2009

Subject: Programming Action to prevent TEA-21 and ISTEA earmark funds from being rescinded after September 30, 2009

Recommendation:*

- 1) Receive report on the possibility of rescinding unobligated TEA-21 and ISTEA earmark funds by Congress.
- 2) Approve staff recommendation on timely obligation of the subject TEA-21 and ISTEA funds by September 30, 2009 through urgent FTIP Amendment #16.

Background: On April 8, 2009, SANBAG received a notification from Caltrans Local Assistance that several ISTEA and TEA-21 HPP earmarks in San Bernardino region might be rescinded in the next multi-year transportation act. The notification was based on a letter from the US House Representatives Committee on Transportation and Infrastructure addressing frame work for the new transportation act and its focus on performance and accountability. Although the Committee and DOT are still establishing the criteria by which earmarks will be subject to rescission, Caltrans urged local agencies to act fast to get these funds obligated by September 30, 2009 before the enactment of new transportation act.

In order to timely obligate these earmarks funds prior to September 30, 2009, the funds must be correctly programmed in the current FTIP. Funds must be in the correct funding year, either in FY08/09, or 09/10. The funds also need to be programmed in the correct phase of projects, such as Preliminary Engineering, Right of Way or Construction. Each phase has separate federal requirements for obligation. For example, the project has not received Environmental clearance (PAED), no funds can be obligated for R/W or Construction. SANBAG staff verified all subject funds

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Approved
Board of Directors

Date: June 3, 2009

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

and recommended process FTIP amendment immediately to gain time needed for the lengthy FTIP process. SANBAG staff worked with Caltrans, SCAG and local jurisdictions initiated FTIP Amendment #16 with the following programming actions:

1. Amends \$1,000,000 DEMO TEA 21 in FY 08/09 for Preliminary Engineering for the Evans Street improvement project in the City of Loma Linda. Agency lead: City of Loma Linda.
2. Amends \$500,000 DEMO TEA 21 in FY 08/09 for Construction for the Mission Blvd Improvement project in the City of Montclair. Agency lead: the City of Montclair.
3. Amends \$1,050,000 DEMO TEA 21 in FY 08/09 for Right of Way for the Mission Blvd Seg 1 & 2 Improvement project in the City of Ontario. Agency lead: the City of Ontario.
4. Amends \$2,473,000 DEMO TEA 21 in FY08/09 for Construction for the Airport Ground Access project in the City of Ontario. Agency lead: the City of Ontario.
5. Amends \$6,192,000 DEMO TEA 21 in FY 08/09 for Preliminary Engineering for the I10/Pepper Interchange project lead by the County of San Bernardino. Agency lead: the County of San Bernardino.
6. Amends \$4,018,000 DEMO TEA 21 in FY 08/09 for Preliminary Engineering for the I10/Tippecanoe Interchange Improvement project. The earmarks will buy-down the total project cost. Agency lead: SANBAG.
7. Amends \$4,823,000 DEMO ISTE A in FY08/09 for Right of Way for the I15/La Mesa Nisqualli Road Interchange project in the City of Victorville. The additional earmarks came from the un-spent balance of the Caltrans' I15 and I40 Improvement project that has been completed in early 2000. SANBAG staff worked with Caltrans and obtained concurrence to allocate the unspent balance to the I15/La Mesa Nasqualli Interchange due to its location on the I15 Corridor and its delivery schedule. The project is scheduled to achieve the Ready to List milestone in summer of 2009. The exact amount will reduce the exact amount of Measure I contribution to the project that required by the Nexus Study. Agency lead: the City of Victorville.

In summary, over \$20M earmarks funds will be saved through the Amendment #16. Funds can be obligated once the FTIP is approved. SANBAG anticipates these funds will be obligated in early July.

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June 3, 2009
Page 3

Financial Impact: Over \$20M funds will be secured and avoid funds possibly be rescinded by Congress. In addition, total of \$8.8M earmarks provides savings for Measure I and buy-down local share contributions.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Committee on May 20, 2009.

Responsible Staff: Wendy Li, Chief of Programming
Ty Schuiling, Director of Planning and Programming

Minute Action

AGENDA ITEM: 12

Date: June 3, 2009

Subject: Project Advancement Agreements

- Recommendation:***
- 1) Receive information on requests for additional Project Advancement Agreements (PAA) from the Cities of Rancho Cucamonga, Rialto, Chino, Highland, and the County of San Bernardino to rectify issues associated the expenditure of funds on Nexus Study Projects prior to the execution of a PAA.
 - 2) Note that approval of Agreements will extend the estimated payback periods for PAAs. The impact on the Valley Major Street Program will extend the PAA payback period by 2-3 years to approximately 10 years. The impact on the Valley Freeway Interchange Program will extend the payback period by 2 years to approximately 7 years.
 - 3) Approve the model Project Advancement Agreement (Attachment 1), with clarifying revisions incorporated subsequent to approval of the Measure I 2010-2040 Strategic Plan.
 - 4) Recognize that consistent with original PAA program principles, repayment of Project Advancement Agreements must be subordinate to debt service on bonds sold to deliver SANBAG-sponsored projects.
 - 5) PAAs will only be recommended for approval after evaluation of their impact to SANBAG's overall financial strength and stability.

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Approved
Board of Directors

Date: June 3, 2009

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

Background:

A strategy to advance SANBAG Nexus Study interchange, arterial, and grade separation projects to construction prior to the availability of Measure I 2010-2040 revenues was approved by the SANBAG Board of Directors in December 2005. A model Project Advancement Agreement (PAA) was approved on April 5, 2006. On September 2, 2008, the Board adopted a policy to repay the public share of local funds advanced pursuant to Project Advancement Agreements for the Valley Interchange and Major Street Programs in the order in which funds are actually expended. The adopted Measure I 2010-2040 Strategic Plan includes Policy 40002 pertaining to Project Advancement Agreements (PAAs) and Advance Expenditure Agreements (AEAs), which clarified that expenditures eligible for reimbursement are limited to those incurred on or after April 5, 2006 or the date of local development mitigation program approval by SANBAG,, whichever is earlier.

As of October 2007, 19 PAAs had been approved. This includes \$27.7 million in PAA obligations for the Valley Interchange Program and \$70.1 million in obligations for the Valley Major Streets Program (see Table 1). Subsequent requests were received, but the execution of additional PAAs was put on hold until further work on the PAA repayment process was completed. Following resolution of this procedural issue, SANBAG issued a final call for Project Advancement Program projects in a letter dated December 8, 2008, with a closing date for response of January 31, 2009. This solicitation was an effort to finalize documentation and SANBAG commitments to Nexus Study projects that met the Project Advancement Program criteria.

Five jurisdictions responded to that call: City of Rancho Cucamonga (22 projects), City of Rialto (5 projects), City of Chino (5 projects), City of Highland (2 projects) and County of San Bernardino (1 project). The new PAA requests consist of \$6.6 million of additional PAA obligations for the Valley Interchange Program and \$16 million of additional obligations for the Valley Major Street Program (see Table 2).

The process of executing PAAs for these remaining projects requires SANBAG to provide the jurisdictions with the appropriate agreements to be approved by their local elected body. The agreements would then be approved by SANBAG. Repayment of PAAs will not begin until the first quarter of fiscal year 2010-2011 at the earliest and is subject to the apportionment process for the Valley subarea under Strategic Plan Policy 40001. It is also recognized that repayment of PAAs must be subordinate to debt service on bonds sold to deliver SANBAG-sponsored projects, consistent with the intent of the Board when the program was established.

Although a full financial analysis of the impact of the additional PAAs has not been completed, it can be estimated that the net effect of executing the new PAAs would be to add 2-3 years to the payback of PAAs for the Valley Major Street Program and approximately 2 years for the Valley Interchange Program. Current estimates are that the PAAs (existing plus new) for the Major Street Program could be repaid over a 10 year period assuming dedication of 40% of the revenue. The Interchange Program could require up to 7 years for repayment. This is dependent on the actual flow of revenue from the new Measure apportionment decisions made by the SANBAG Board of Directors and recognizes that PAA repayment is subordinate to the demands of debt service on SANBAG bonds.

All of the PAA commitments for the Major Street Program will be accounted for in the equitable share calculations referenced in the Strategic Plan policies, which guarantee an equitable distribution of Major Street Program revenue to each jurisdiction based on the needs specified in the Nexus Study. The addition of the new PAAs would not affect this distribution. A model PAA agreement is included as Attachment 1. This includes modifications from the model PAA originally approved by the SANBAG Board in April 2006. The principal modifications include:

- Reference to specific Measure I 2010-2040 policies that were not available when the original model agreement was approved in 2006.
- Inclusion of a statement that reimbursement of PAAs shall be subordinate to debt service on bonds sold to deliver SANBAG-sponsored projects.
- Clarification that SANBAG will reimburse the public share of the Nexus Study cost or the public share of the actual cost, whichever is less, on an individual project basis.

It must be recognized that each individual PAA will need to be tailored to the specific project or sets of projects and will need to account for any federal or State funding in accordance with Strategic Plan Policy 40002.

Financial Impact: This item has no immediate financial impact, given that it approves only the model agreement. However, the additional PAA requests will commit SANBAG to reimbursement of up to an additional \$6,600,000 in Measure I 2010-2040 revenue dedicated to Valley Interchange Programs and \$16,196,770 in revenues dedicated to the Valley Major Street Programs. This will bring the total of PAA obligation to \$34,337,253 in the Valley Interchange Program and \$86,257,894 in the Valley Major Street Program. The additional PAAs will not increase SANBAG's financial obligation in any given year, but will increase the number of years over which reimbursement to local jurisdictions will occur.

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Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Committee on May 20, 2009.

Responsible Staff: Philip Chu, Transportation Programming Analyst
Steve Smith, Chief of Planning
Ty Schuiling, Director of Planning and Programming

TABLE 1

Valley Freeway Interchange Projects--WITH EXISTING PAA AGREEMENT

Agency	Contract No.	Board Approval	Agenda Item	Project Location	Project Description	Cost Estimate	Measure Share
Yucaipa	C07047	08/02/2006	brd0608a-abz	I-10 at Oak Glen/Live Oak	Interchange Reconstruction	\$18,403,246	\$6,286,672
Fontana	C07129	12/06/2006	brd0612b-abz	I-15 at Duncan Canyon Rd	Construct New Interchange	\$18,000,000	\$4,068,000
Rialto	C07170	04/04/2007	brd0704c-abz	I-10 at Riverside Avenue	Interchange Reconstruction	\$30,400,000	\$17,382,581
TOTAL MEASURE COMMITMENT TO VALLEY FREEWAY INTERCHANGE PROJECTS							\$27,737,253

Valley Major Street Projects --WITH EXISTING PAA AGREEMENT

Agency	Contract No.	Board Approval	Agenda Item	Project Location	Project Description	Cost Estimate	Measure Share
Chino Hills	C07022	07/05/2006	brd0607b-abz	Peyton Dr	Widen from Grand Av to Chino Hills Pkwy	\$15,167,000	\$8,202,776
Fontana	C07058	12/06/2006	brd0612b-abz	Baseline Ave.	TOTAL MEASURE COMMITMENT TO CHINO HILLS	\$7,550,000	\$8,202,776
Fontana	C07059	12/06/2006	brd0612b-abz	Cherry Ave	Widen from Citrus Ave to 330' East of Mango Ave	\$3,110,000	\$5,134,000
Fontana	C07060	12/06/2006	brd0612b-abz	Foothill Ave	Widen from Jurupa Ave to Slover Ave	\$7,400,000	\$2,114,800
Fontana	C07061	12/06/2006	brd0612b-abz	Sierra Ave	Widen from East Ave to Hemlock Ave	\$7,800,000	\$5,032,000
Fontana	C07062	12/06/2006	brd0612b-abz	Junupa Ave	Widen from Baseline Ave to Walnut Ave	\$12,000,000	\$5,304,000
Fontana	C07063	12/06/2006	brd0612b-abz	Citrus Ave	Widen from Elwanda Ave to Sierra Ave	\$4,200,000	\$8,160,000
Fontana	C07064	12/06/2006	brd0612b-abz	Walnut Ave	Widen from Baseline Ave to So. Highland Ave	\$4,200,000	\$2,720,000
Fontana	C07065	12/06/2006	brd0612b-abz	So. Highland Ave	Widen from Citrus Ave. to Sierra Ave	\$4,000,000	\$2,858,000
Fontana	C07066	01/10/2007	brd0701a-abz	Cypress Ave	Widen from San Sevaine Rd to Citrus Ave	\$20,000,000	\$2,720,000
Highland	C08016	10/03/2007	brd0710a-abz	Greenspot Rd	Construct Overcrossing at I-10	\$20,000,000	\$10,245,502
R Cucamonga	C07025	08/02/2006	brd0608b-abz	Haven Ave	TOTAL MEASURE COMMITMENT TO FONTANA	\$2,710,000	\$44,286,302
Yucaipa	C07098	10/04/2006	brd0610a-abz	Yucaipa Blvd	Improvements (widening) from SR-30 to Boulder	\$2,898,400	\$523,416
Yucaipa	C07099	10/04/2006	brd0610b-abz	Oak Glen Rd	TOTAL MEASURE COMMITMENT TO HIGHLAND	\$15,910,000	\$523,416
Yucaipa	C07100	10/04/2006	brd0610c-abz	Oak Glen Rd	Construct Grade Separation	\$500,000	\$13,856,000
Yucaipa	C07101	10/04/2006	brd0610d-abz	Wildwood Canyon Rd	TOTAL MEASURE COMMITMENT TO RANCHO CUCAMONGA	\$2,898,400	\$1,224,750
TOTAL MEASURE COMMITMENT TO VALLEY MAJOR STREET PROJECTS							\$70,061,124

TABLE 2

Valley Freeway Interchange Projects-- PAA AGREEMENT REQUESTS						
Agency	Contract No.	Board Approval	Agenda Item	Project Location	Project Description	Cost Estimate Measure Share
SB County				I-10 Pepper Ave	I-10 Freeway Interchange	\$10,000,000 \$6,600,000
				TOTAL MEASURE COMMITMENT TO VALLEY FREEWAY INTERCHANGE PROJECTS		
						\$6,600,000
Valley Major Street Projects-- PAA AGREEMENT REQUESTS						
Agency	Contract No.	Board Approval	Agenda Item	Project Location	Project Description	Cost Estimate Measure Share
R Cucamonga				Haven Ave	Widening from Baseline Rd to I-210 Fwy Westside	\$6,000,000 \$4,260,000
R Cucamonga				Church St	Widening from Archibald to Haven 2 to 4 lanes	\$1,152,000 \$817,920
R Cucamonga				4th and Richmond	New traffic signal	\$158,000 \$112,180
R Cucamonga				4th and Utica	New traffic signal (50% Ontario)	\$158,000 \$112,180
R Cucamonga				6th and Buffalo	New traffic signal	\$158,000 \$112,180
R Cucamonga				6th and Utica	New traffic signal	\$158,000 \$112,180
R Cucamonga				Archibald and Banyan	New traffic signal	\$158,000 \$112,180
R Cucamonga				Archibald and San Bernardino	New traffic signal	\$158,000 \$112,180
R Cucamonga				Archibald and Victoria	New traffic signal	\$158,000 \$112,180
R Cucamonga				Arrow and Center	New traffic signal	\$158,000 \$112,180
R Cucamonga				Banyan and Wardman Bullock	New traffic signal	\$158,000 \$112,180
R Cucamonga				Donnellan and Wilson	New traffic signal	\$158,000 \$112,180
R Cucamonga				Church and Elm	New traffic signal	\$158,000 \$112,180
R Cucamonga				Pine Creek and Madrigal	New traffic signal	\$158,000 \$112,180
R Cucamonga				Foothill and Chinwall	New traffic signal	\$158,000 \$112,180
R Cucamonga				Foothill and West Ave	New Traffic Signal (50% Fontana)	\$158,000 \$112,180
R Cucamonga				Foothill and Malachite	New traffic signal	\$158,000 \$112,180
R Cucamonga				Haven and Trademark	New traffic signal	\$158,000 \$112,180
R Cucamonga				Haven and Wilson	New traffic signal	\$158,000 \$112,180
R Cucamonga				Hermosa and Church	New traffic signal	\$158,000 \$112,180
R Cucamonga				Wilson and San Sevaline	New traffic signal	\$158,000 \$112,180
R Cucamonga				Wilson and Wardman Bullock	New traffic signal	\$158,000 \$112,180
					TOTAL MEASURE COMMITMENT TO RANCHO CUCAMONGA	\$7,321,520
Chino				Chino Avenue	Widen from Fern to Euclid (2 to 4 lanes)	\$4,565,000 \$2,236,850
Chino				Kimball Ave	Widen from Euclid to Hellman (2 to 4 lanes)	\$6,661,000 \$3,263,890
Chino				Pine and Mill Creek	New traffic signal	\$88,690
Chino				Pine and West Preserve Loop	New traffic signal	\$181,000 \$88,690
Chino				Fern and Riverside Dr.	New traffic signal	\$201,000 \$98,490
					TOTAL MEASURE COMMITMENT TO CHINO	\$5,776,610
Rialto				Bloomington Ave and Willow Ave	New traffic signal	\$395,000 \$237,000
Rialto				Merrill Ave and Willow Ave	New traffic signal	\$282,000 \$169,200
Rialto				Cactus Ave and Walnut Ave	New traffic signal	\$282,000 \$169,200
Rialto				Cactus and Randall Ave	New traffic signal	\$282,000 \$169,200
Rialto				Riverside Ave and Alder Ave	New traffic signal	\$282,000 \$169,200
					TOTAL MEASURE COMMITMENT TO RIALTO	\$913,800
Highland				9th Street	Widening from Elmwood Rd to Sterling Ave	\$3,599,000 \$1,943,460
Highland				9th Street	Widening from 380' East to 1,920' West Cunningham Street	\$447,000 \$241,380
					TOTAL MEASURE COMMITMENT TO HIGHLAND	\$2,184,840
					TOTAL MEASURE COMMITMENT TO VALLEY MAJOR STREETS PROJECTS	\$16,196,770

Attachment 1

**COOPERATIVE AGREEMENT NO.
BETWEEN**

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY

FOR

THIS AGREEMENT is made and entered into this ____ day of _____ by and between the San Bernardino County Transportation Authority (hereinafter referred to as "SANBAG") and City _____ (hereinafter referred to as "CITY").

WITNESSETH

WHEREAS, the SANBAG Nexus Study and the Measure I 2010-2040 Expenditure Plan identify freeway interchange, major street, and railroad grade separation PROJECT(s) eligible for partial funding from Measure I 2010-2040 revenues; and

WHEREAS, SANBAG has determined that this PROJECT(S) and expenditure phase are included in the SANBAG Nexus Study and are eligible to receive Measure I 2010-2040 funds; and

WHEREAS, because revenue for the PROJECT(S) from Measure I 2010-2040 will not be available until 2010 or later, CITY desires to use its own local (non-SANBAG) funds to proceed with the PROJECT(S) at this time; and

WHEREAS, SANBAG and CITY are entering into this Agreement that will allow CITY to use funds not contributed or allocated by SANBAG to implement the PROJECT(S) immediately with the understanding that SANBAG will reimburse CITY for eligible PROJECT(S) expenditures at a later date with Measure I 2010-2040 revenue or other eligible public share revenue available to SANBAG in accordance with the reimbursement schedule established in Policy 40002 of the Measure I 2010-2040 Strategic Plan.

NOW, THEREFORE, SANBAG and CITY agree to the following:

SECTION I

DEFINITIONS:

- COST of a PROJECT is the PROJECT cost for the phase or phases defined in the Scope of Work in Attachment A.
- DEVELOPMENT SHARE of PROJECT cost is the developer contribution percentage, as listed in the SANBAG Nexus Study, times the COST of the PROJECT.
- PUBLIC SHARE of the PROJECT is the COST of the PROJECT minus its DEVELOPMENT SHARE.

SANBAG AGREES:

1. To reimburse CITY for the PUBLIC SHARE of those eligible PROJECT expenses that are incurred by CITY for the PROJECT-specific work activities, as set forth in Attachment A to this Agreement. Said reimbursement amount shall not exceed the PUBLIC SHARE amount as calculated by the total cost of the PROJECT minus the DEVELOPMENT SHARE of the cost, as indicated in the Nexus Study. The DEVELOPMENT SHARE of the cost for the PROJECT is as follows:

(list information for each project here)

In the event that the actual PROJECT expenditures are lower than the estimated cost in Attachment A for any individual project, the development percentage shall be applied to the actual expenditures for each.

When non-Measure I funds are included as part of the funding package, the calculation of reimbursement shall be based on policies in the SANBAG Measure I 2010-2040 Strategic Plan. The Strategic Plan provides specific guidance regarding the fund types that buy down the total PROJECT cost, the PUBLIC SHARE cost, and the DEVELOPER SHARE cost (refer to Policy 40001/VS-30).

In the event that additional Federal/State funds are applied to this PROJECT(s), the reimbursement amount shall be recalculated to reflect the change in Federal/State transportation funding.

2. SANBAG shall reimburse CITY for the PUBLIC SHARE in accordance with the reimbursement terms set forth in Policy 40002 of the Measure I 2010-2040 Strategic Plan, and after CITY submits to SANBAG an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by CITY.

3. When conducting an audit of the costs claimed under the provisions of this Agreement, SANBAG intends to rely to the maximum extent possible on any prior audit of CITY performed pursuant to the provisions of state and federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to SANBAG when planning and conducting additional audits.

SECTION II

CITY AGREES:

1. Only eligible PROJECT-specific work activities, as set forth in Attachment A to this Agreement, which are for transportation purposes that conform to the SANBAG Nexus Study and the Strategic Plan, will be eligible for future Measure I 2010-2040 reimbursement. CITY agrees that it will claim reimbursement only for eligible PROJECT-specific work activities.
2. To abide by all State and, if applicable, Federal policies and procedures pertaining to the PROJECT(s).
3. After completion of the PROJECT(s), to prepare and submit to SANBAG an original and two copies of signed consultant/contractor invoices for subsequent reimbursement of those eligible PROJECT expenses. CITY further agrees and understands that SANBAG will not reimburse CITY for any PROJECT expenditures that are not described in the PROJECT-specific work activities.
4. If Measure I 2010-2040 reimbursement funds are received by CITY, to repay to SANBAG any costs that are determined by subsequent audit to be unallowable within thirty (30) days of CITY receiving notice of audit findings. Should CITY fail to reimburse moneys due SANBAG within thirty (30) days of demand, or within such other period as may be agreed between both parties hereto, SANBAG reserves the right to withhold future payments due CITY from any source under SANBAG's control.
5. To maintain all source documents, books and records connected with its performance under this Agreement for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to SANBAG or until audit resolution is achieved and to make all such supporting information available for inspection and audit by representatives of SANBAG. Copies will be made and furnished by CITY upon request, during the period of no less than five (5) years from the date of final reimbursement payment, if said reimbursement occurs under this Agreement.
6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support CITY request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, and other allowable expenditures by CITY.

7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible PROJECT costs expended for those activities described in the work activities, and to submit that Report and invoice no later than 60 days following the completion of those expenditures. The Final Report of Expenditures, three copies of which report shall be submitted to SANBAG, must state that these PROJECT funds were used in conformance with this Agreement and for those PROJECT- specific work activities described.
8. To have a PROJECT-specific audit completed by SANBAG upon completion of the PROJECT(s). The audit must state that all funds expended on the PROJECT(s) were used in conformance with this Agreement.
9. CITY agrees that the PROJECT reimbursement schedule will be determined according to Measure I 2010-2040 Policy 40002 of the Measure I 2010-2040 Strategic Plan. CITY acknowledges that SANBAG reserves the right to make modifications to the project advancement repayment policy at any time based on SANBAG Board approval. CITY will be notified by SANBAG of any modifications of this policy within 30 days of its modification.
10. CITY agrees to post signs at the limits of PROJECT(s) noting that PROJECT(s) is (are) funded with Measure I funds. Signs shall bear the logos of San Bernardino Associated Governments/ Measure I and CITY.

SECTION III

IT IS MUTUALLY AGREED:

1. SANBAG's financial responsibility shall not exceed \$___ (as adjusted based on the availability of Federal/State transportation funding as described in SECTION I) or the amount based on actual cost as derived in ARTICLE 1, SECTION I, whichever is less.
2. Eligible PROJECT reimbursements shall include only those costs incurred by CITY for PROJECT-specific work activities that are described in this Agreement and shall not include escalation, interest, or other fees.
3. SANBAG shall have no responsibility to reimburse any otherwise allowable PROJECT expenditures until a) sufficient Measure I 2010-2040 revenue exists to fund those eligible PROJECT reimbursements and b) CITY has satisfied any and all other necessary PROJECT requirements including the submission of all required invoices and Reports.
4. Once reimbursement is initiated, total reimbursements to all eligible advanced projects shall not exceed 40 percent of the revenues allocated to the program categories from which the projects will be funded. Reimbursement in full for eligible

costs shall be completed no later than receipt of final revenues generated by Measure I 2010-2040.

5. All reimbursement to member agencies shall be subordinate to debt service on bonds sold to deliver SANBAG sponsored projects.
6. In the event CITY fails to initiate construction by January 31, 2009, fails to complete the PROJECT(s) commenced under this Agreement, fails to perform any of the obligations created by this Agreement, or fails to comply with applicable state and federal laws and regulations, SANBAG reserves the right to terminate this Agreement and any subsequent funding for the PROJECT(s) or any portion thereof upon written notice to CITY. CITY may only be reimbursed for those eligible PROJECT expenditures that occur prior to the date of termination when successfully completed as provided for pursuant to this Agreement. Upon termination, an audit may be performed as provided in Section II, Article (8) of this Agreement.
7. The CITY is responsible for payment of the entire DEVELOPMENT SHARE amount. If there are other jurisdictions with minority DEVELOPMENT SHARE amounts, the CITY is responsible for establishing a cooperative agreement with other jurisdictions that guarantees the reimbursement of the minority DEVELOPMENT SHARE according to terms mutually agreed upon by all parties.
8. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SANBAG, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
9. Except as provided in Section III 8, this Agreement will be considered terminated upon reimbursement of eligible costs by SANBAG.

**San Bernardino County
Transportation Authority**

By: _____
President, SANBAG Board of
Directors

Date: _____

APPROVED AS TO FORM AND
PROCEDURE:

By: _____
SANBAG County Counsel

Date: _____

City of

By: _____
Mayor

Date: _____

APPROVED AS TO FORM AND
PROCEDURE:

By: _____
City Attorney

Date: _____

Attachment A

Project(s) Scope and Cost

Proposed Improvements and project cost:

TOTAL NEXUS STUDY PUBLIC SHARE

-
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 13

Date: June 3, 2009

Subject: Scope of Work for Updating the Big Bear Modal Alternatives Analysis

Recommendation:* Approve the Scope of Work in concept (Attachment 1)

Background: The Big Bear Valley, located in the eastern San Bernardino Mountains, is home to about 25,000 full-time and part-time residents in the City of Big Bear Lake, and nearby unincorporated communities such as Big Bear City, Fawnskin, and Sugar Loaf. Additionally, the Valley is one of the premiere recreation areas for both summer and winter activities within a hundred-mile radius of the greater Los Angeles metropolitan area. The area boasts Southern California's largest alpine lake, as well as Southern California's best winter sports resorts.

Transportation to and from the Big Bear Valley poses a challenge. Access is provided by two-lane state highways with some four-lane sections: State Route 18 from the west and north, State Route 38 from the southeast, and State Route 330 connecting to SR 18 from the southwest. All are eligible for state scenic highway designation, and State Route 38 from Barton Flats to the Big Bear Valley has already been so designated. The scenic quality and environmental sensitivity of the National Forest lands traversed by these routes mean that these highways will not be improved to continuous divided highway or freeway standard in the foreseeable future, and even limited operational improvements such as the addition of local passing lanes and turnouts are difficult. These routes are

*

Approved
Board of Directors

Date: June 3, 2009

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

BRD0906a-ts

Attachments: BRD0906a1-ts, BRD0906a2-ts

4049000

congested during peak recreational and commute periods and are heavily impacted by inclement weather and rock fall, particularly in winter and early spring. Access is most challenging following the snowfalls that produce the conditions most attractive to winter sports enthusiasts. Movement of goods to and from the Big Bear Valley on the steep, winding roads is always problematic too, but is especially so under winter conditions or during periods of high recreation traffic in the summer and fall.

Alternative modes to provide safe, timely, all-weather access to the Big Bear Valley for residents, other individuals seeking to enjoy the area's recreational opportunities, and the goods and supplies needed to serve these populations have been considered in the past. Most recently, the "Big Bear Enhanced Ground Access Feasibility Study," completed in 1996 for San Bernardino Associated Governments by BRW and others, assessed the feasibility of technologies including cog rail, Aerobus, Aerorail, and TRASSE to provide high-capacity all-weather access to the Big Bear Valley from the San Bernardino Valley and the eastern terminus of Metrolink service. These technologies were considered as potential alternatives to highway widening. The analysis assessed the attributes of the alternate technologies, developed capital, operating, and maintenance costs for each, developed forecasts of ridership and revenue generation for each mode, and from this information provided a comparison of the modes in relation to their respective capacities to address future travel demand, capital and operating costs, and travel times.

None of the modal alternatives considered in the BRW Study were pursued for a variety of reasons, including lack of commitment from the mountain communities and resort operators, and an inability to capitalize such a project at the time. Since 1996, however, perspectives have changed, and the mountain, urban, and tourist populations that could be served by such an alternate mode have experienced explosive growth. Further, the technologies have evolved toward electrically powered, zero emission modes consistent with air quality attainment strategies in the South Coast Air Basin.

The project cost is expected to total \$500,000 over a period of two years, to be split evenly between federal transportation planning grant funds from the Southern California Association of Governments (SCAG), and funding from Measure I and the IVDA. Proposed funding to match SCAG's two-year, \$125,000 per year contribution includes \$62,500 per year from the Inland Valley Development Agency and \$62,000 per year from Valley and Mountains Subarea Measure I Traffic Management Systems (TMS) funds. Proportionate reductions

in Measure I and other match funds would occur if other contributors are identified. Contracts for these funding arrangements will be returned to a future meeting of the Board of Directors for action when the arrangements are finalized.

The consultant procurement and the consultant contract will be administered by SCAG. Project oversight and direction will be provided by a Management Team composed of representatives of the funding agencies and affected jurisdictions.

Financial Impact: This item is not consistent with the proposed Fiscal Year 2009-2010 SANBAG Budget. The impact to Valley Measure I TMEE and Mountain Measure I 2010-2040 TMS funds in combination could total \$125,000 over a period of two years. As noted above, agreements needed to formalize the funding arrangements described above will be brought back for committee review and approval by the SANBAG Board of Directors as they are completed.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Policy Committee on May 20, 2009.

Responsible Staff: Ty Schuiling, Director of Planning and Programming
Duane Baker, Director of Management Services

SCOPE OF SERVICES

BACKGROUND

The Big Bear Valley, located in the eastern San Bernardino Mountains, is home to about 25,000 full-time and part-time residents in the City of Big Bear Lake, and nearby unincorporated communities such as Big Bear City, Fawnskin, and Sugar Loaf. Additionally, the Valley is one of the premiere recreation areas for both summer and winter activities within a hundred-mile radius of the greater Los Angeles metropolitan area. The area boasts Southern California's largest alpine lake, as well as Southern California's best winter sports resorts.

Transportation to and from the Big Bear Valley poses a challenge. Access is provided by two-lane state highways with some four lane sections: State Route 18 from the west and north, State Route 38 from the southeast, and State Route 330 connecting to SR 18 from the southwest. All are eligible for state scenic highway designation, and State Route 38 from Barton Flats to the Big Bear Valley has already been so designated. The scenic quality and environmental sensitivity of the National Forest lands traversed by these routes mean that they will not be improved to continuous divided highway or freeway standard in the foreseeable future, and even limited operational improvements such as the addition of local passing lanes and turnouts is difficult. These routes are congested during peak recreational and commute periods and are heavily impacted by inclement weather and rockfall, particularly in winter and early spring. Access is most challenging following the snowfalls that produce the conditions most attractive to winter sports enthusiasts. Movement of goods to and from the Big Bear Valley on the steep, winding roads is always problematic too, but is especially so under winter conditions or during periods of high recreation traffic in the summer and fall.

Alternative modes to provide safe, timely, all-weather access to the Big Bear Valley for residents, other individuals seeking to enjoy the area's recreational opportunities, and the goods and supplies needed to serve these populations have been considered in the past. Most recently, the "Big Bear Enhanced Ground Access Feasibility Study," completed in 1996 for San Bernardino Associated Governments by BRW and others, assessed the feasibility of technologies including cog rail, Aerobus, Aerorail, and TRASSE to provide high-capacity all-weather access to the Big Bear Valley from sites in the San Bernardino Valley and the eastern terminus of Metrolink service. These technologies were considered as potential alternatives to highway widening. The analysis assessed the attributes of the alternate technologies, developed capital, operating, and maintenance costs for each, developed forecasts of ridership and revenue generation for each mode, and from this information provided a comparison of the modes in relation to their respective capacities to address future travel demand, capital and operating costs, and travel times.

None of the modal alternatives considered in the BRW study were pursued for a variety of reasons, including lack of commitment from the mountain communities and resort operators, and an inability to capitalize such a project at the time. Since 1996, however, perspectives have changed, and the mountain, urban, and tourist populations that could be served by such an alternate mode have experienced explosive growth.

PURPOSE AND OBJECTIVES

The principal objective of the Big Bear Modal Alternatives Analysis is identification of the most feasible all-weather, high-capacity, non-auto transportation mode to provide safe and timely access for passengers and goods from the San Bernardino Valley and the greater Los Angeles metropolitan area to the communities and resorts of the Big Bear Valley. Achieving this objective will require the following:

- a. Identification and evaluation of the alternative modes or technologies that can meet specified selection criteria such as capacity to move people, capacity to move freight, travel time, environmental and community sensitivity including air quality, ability to utilize one or more possible alignments (see below) to reach the Big Bear area, and right-of-way, capital, and operating costs and characteristics of each.
- b. Identification of logical termini and intermediate stations, if any, to maximize service and project feasibility, including consideration of opportunities for transit-oriented development or access to additional attractions or activity centers.
- c. Identification and assessment of alternate alignments between the termini and intermediate stations in consideration of the characteristics of the available technologies.
- d. Assessment of ridership/freight movement potential as a function of mode/technology, choice of termini and other stations, alignment and fare.
- e. Feasibility analysis and selection of the preferred technology, alignment and station configuration, and operating plan: estimation of farebox and freight movement revenues to cover operating, maintenance, and even capital costs of the selected alternative, and other possible sources of capital.
- f. If found to be potentially feasible, specification of the next steps toward implementation.

The Study will be guided by a Technical Advisory Committee (TAC) and will report periodically to a committee of elected officials who represent the affected areas of San Bernardino County (e.g. the Plans and Programs Policy Committee or a committee of elected officials constituted specifically for this project). The TAC is expected to meet monthly. Reports to the policy committee will be made on an as-needed basis, but four meetings with the policy committee can be anticipated. It is desired that the study be conducted in no longer than a 20-month time frame, including preparation of the draft and final reports. The study shall consider the relationship of this project to the Sustainable Communities Strategy to be developed as part of SANBAG and SCAG's response to Senate Bill 375.

Task 1 – Project Management and Outreach

The project contract will be administered by the Southern California Association of Governments (SCAG). The consultant shall manage project tasks, submit written monthly progress reports with invoices, and schedule regular phone calls between TAC meetings with the SANBAG and SCAG project managers. The monthly progress report shall document specific accomplishments of each task, difficulties encountered, and any adjustments recommended in the project schedule.

Monthly meetings will be scheduled with the project's Technical Advisory Committee (TAC). The consultant shall document the major points and actions taken at each TAC meeting and provide those notes to the SANBAG project manager within two weeks following each meeting. Four meetings will be held with the study's Policy Committee at key milestones.

The consultant team will develop a project database of affected parties and interested participants. The database will include resource agencies, key stakeholders, meeting participants, and interested community, environmental, and professional organizations. In addition, the team will conduct up to eight one-on-one meetings with key stakeholders. These meetings could also be used to supplement outreach to groups of elected officials or staff. Up to four fact sheets shall be provided containing basic information on project progress. The timing of the fact sheets shall be discussed with the TAC and shall be suitable for inclusion in city council agendas and for posting on SANBAG's web site.

The consultant shall maintain all electronic and hard copy files pertaining to the project and shall provide SANBAG with an electronic version of all reports, technical memos, and backup data prior to completion of the study. This shall include a PDF version of the final report. The consultant and subconsultants shall maintain consistent quality control procedures.

Deliverables:

- Monthly progress reports;
- Brief meeting notes and action items from the Technical Advisory Committee meetings;
- Up to four Fact Sheets
- Additional materials that can be posted on SANBAG's website, as determined in consultation with the SANBAG project manager.

Task 2 - Data collection, analysis of existing conditions, and identification of potential modal technologies

The consultant shall assemble and organize available information on time-of-day and seasonal travel demand by trip purpose to and from the Big Bear Valley. The data shall also include an inventory of freight and materials moved to and from the Big Bear Valley. The consultant shall conduct traffic counts or other studies as needed to assemble data needed pursuant to this task.

The consultant will also inventory and characterize the available modal technologies that may meet the transportation service objectives and criteria established through Task 3 (below) to justify their inclusion among the alternatives worthy of additional study. Information from earlier studies may be helpful, but it is expected that improvements to technologies extant more than a decade ago, new technologies, and a need to pursue zero or near-zero emission technologies will necessitate extensive updating of past technology inventories.

The consultant will also compile topographic/terrain data, other geographic constraint data, and data on potential terminal station locations and intermediate stops to support definition of routing

alternatives, both in the mountains and on floor of the San Bernardino Valley.

The analysis of existing conditions shall include:

- A report characterizing potential candidate modal technologies, including their capacities to move people and goods, speed, grade limitations, energy consumption and emissions, noise levels and footprint, and any other factors deemed important by the consultant and TAC;
- Documentation of existing travel demand as a function of time-of-day and season, for movement of people and goods between the Big Bear Valley and the San Bernardino Valley.
- Documentation of existing capacity for, and constraints on, movement of people and goods between the Big Bear Valley and the San Bernardino Valley.
- Up to date topographic and opportunities and constraints mapping to support identification of alignment alternatives. This shall include generalized environmental constraints that may help guide the location of alignment alternatives.

The analysis of existing conditions shall be documented in an Existing Conditions Report.

Deliverables:

- Technology Alternatives and Existing Conditions Report

Task 3 – Development and evaluation of alignment alternatives

The consultant shall identify logical termini and intermediate stations, if any, to maximize service and project feasibility, including consideration of opportunities for transit-oriented development or access to additional attractions or activity centers. This will include characterization of the stations environs to the extent that potential exists to affect or support ridership. The consultant will also identify and assess alternate alignments between the termini and intermediate stations in consideration of the characteristics of the available technologies, the terrain, and other physical, environmental, or political constraints. The alternatives shall consider project scopes that include connections to the regional transit system and shall consider distribution systems to and from station termini. Project scopes shall consider a length of corridor that could extend from downtown San Bernardino to the downtown area of the City of Big Bear Lake.

Deliverables:

- A routing alternatives report that documents alignments considered, alignment selection criteria, and a recommended alignment.

Task 4 – Development of travel demand and ridership forecasts

SCAG and SANBAG, in conjunction with local jurisdictions, will provide the consultant with a forecast of socioeconomic growth by traffic analysis zone (TAZ) for the Big Bear and San Bernardino Valleys, as well as the greater Los Angeles metropolitan area. The consultant, based on

this information, available published data, and input from the Mountain communities and resort operators, will develop a forecast of travel demand by time and trip purpose between the Big Bear and San Bernardino Valleys. From the total travel demand and the characteristics of each technology alternative, the consultant will develop and employ a methodology to determine the mode choice and thereby the ridership for each. In so doing, the consultant shall develop methods by which to consider the effect of higher future fuel costs on overall travel demand and on the choice of modal alternatives versus highway. The forecast shall consider induced demand, or additional demand generated because of the availability of a desirable modal alternative. Several stages of forecasts may be necessary as technologies and alignment alternatives are developed throughout the study. The consultant shall propose the forecasting methodologies to the TAC and obtain agreement from the SANBAG project manager prior to proceeding.

Deliverables:

- A preliminary forecast of potential ridership and freight movement via an alternate mode between the San Bernardino and Big Bear Valleys from 2015 through 2035, designed to inform consideration of alternate technologies. Any mode-specific factors that may influence ridership shall be considered in Task 6 (below).

Task 5 – Identify and weight modal screening and evaluation criteria; shortlist the most promising alternative technologies and alignments for more detailed consideration.

In consultation with the TAC, the consultant shall identify and weight criteria to serve as the basis for screening out technologies that cannot fulfill the capacity, travel time, environmental, or other expectations of the successful modal alternative, leading to development of a modal “shortlist” of technologies worthy of further consideration.

Deliverables:

- A Technology Assessment Report documenting selection of two or more shortlisted technologies, including the modal screening and evaluation criteria used, scoring of the technology alternatives, and justification for shortlisting of two or more alternatives for further consideration.

Task 6 – Development of refined alignments, capital, operating, and maintenance costs, ridership, and goods movement forecasts for each shortlisted mode, and development of estimated revenues as functions of ridership and fare (including movement of freight).

The consultant shall document capital and operating/maintenance costs, revenues as a function of ridership and freight volume or tonnage moved considering both revenue maximizing and ridership maximizing fare structures, for each shortlisted mode and alternative alignments, if any. The consultant shall consider any differences in ridership that may arise from specific characteristics of the alternate modes.

Deliverables:

- A report documenting costs, revenues, ridership, freight movement, or each modal alternative and alignment alternative.

Task 7 – Selection and feasibility assessment of the preferred technology.

The consultant shall develop criteria for selection of a preferred technology on a preferred alignment, and assess the feasibility of the preferred alternative based on data developed principally in Task 6. The feasibility analysis will including a preliminary assessment of potential funding strategies.

Deliverables:

- Feasibility analysis of the preferred technology on the preferred alignment.

Task 8 - Prepare Final Report

A draft final report shall be prepared documenting the results of prior tasks and containing the recommendations and implementation plan. The project report will be compiled using the technical memoranda prepared during the study. During the study, as technical memoranda are reviewed by the TAC, SCAG or SANBAG will assemble their comments and provide a consolidated set of comments to be addressed as the draft report is prepared. SCAG and SANBAG will also consolidate comments on the draft report to be addressed in the final report. Both the draft and the final report will include an executive summary providing an overview of the Study and explaining responsibilities for implementation. SCAG and SANBAG, in consultation with the TAC, will provide comments on the draft report within 30 days of its receipt and the consultant will have 30 days to incorporate revisions. Fifteen copies of the draft and 30 copies of the final report shall be provided, along with a PDF version. The report shall recommend next steps in project development if the preferred alternative is determined to be potentially feasible.

Deliverables:

- Draft final report, including recommendations.
- Final report

RESOLUTION NO. 2009-02

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE
OF CALIFORNIA ENDORSING THE BIG BEAR ENHANCED
GROUND ACCESS FEASIBILITY STUDY (RAIL TO
MOUNTAIN PROJECT)**

WHEREAS, access to the mountain communities is currently provided by three two-lane, undivided highways including State Route (SR)-330, SR-18 and SR-38. The capacity of the highways is limited and results in unacceptable levels of service along most segments; and

WHEREAS, travel up the mountain during dry weather conditions typically takes 45 minutes to an hour. However, accidents can close the roadways for substantial periods and restrict the accessibility of emergency vehicles. During the winter months, snow and ice can lead to extremely dangerous driving conditions, and often triples the driving time; and

WHEREAS, the effect of future travel demand increases on the street and highway network will have adverse affects on roadway levels of service and the environment affecting the overall quality of life in the Big Bear area; and

WHEREAS, transportation improvements that would link the Big Bear Mountain Recreation Area with the San Bernardino Valley would serve future travel patterns safely and efficiently while meeting the needs of the region; and

WHEREAS, in December 1996 the San Bernardino Associated Governments in cooperation with the City initiated the Big Bear Enhanced Ground Access Feasibility Study which identified transportation improvement alternatives including a rail to mountain project from the San Bernardino Valley to the Big Bear Recreation Area, and

WHEREAS, the City of Big Bear Lake in cooperation with the San Bernardino Associated Governments desires to pursue those transportation improvement alternatives identified in the study.

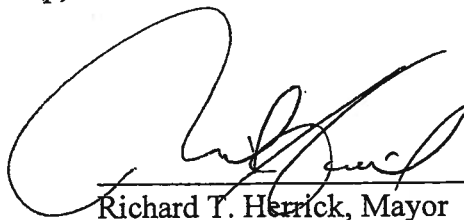
NOW, THEREFORE, BE IT RESOLVED that the City of Big Bear Lake endorses the transportation improvement alternatives identified in the Big Bear Enhanced Ground Access Feasibility Study.

PASSED, APPROVED AND ADOPTED this 26th day of January, 2009.

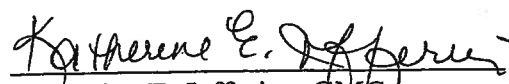
AYES: Harris, Herrick, Jahn, Karp, Mulvihill
NOES: None
ABSENT: None
ABSTAIN: None

January 26, 2009

Date


Richard T. Herrick, Mayor

ATTEST:


Katherine E. Jefferies, CMC
City Clerk

Page 2

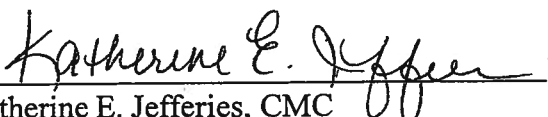
Resolution No. 2009-02

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF BIG BEAR LAKE)

I, Katherine E. Jefferies, City Clerk of the City of Big Bear Lake, California, do hereby certify that the whole number of the City Council of the said City is five; that the foregoing Resolution, being Resolution No. 2009-02 was duly passed and adopted by the said City Council and attested by the City Clerk of said City, all at a regular meeting of the said City held on the 26th day of January, 2009, and that the same was so passed and adopted by the following vote:

AYES: Harris, Herrick, Jahn, Karp, Mulvihill
NOES: None
ABSENT: None
ABSTAIN: None

Witness my hand and the official seal of said City this 26th day of January, 2009.



Katherine E. Jefferies, CMC
City Clerk